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# Official Report of Debates (Hansard)

Friday 23 August 1996

# Journal des débats (Hansard)

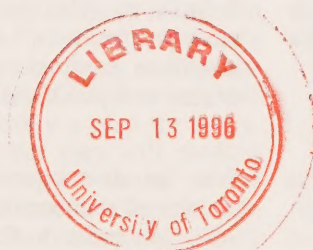
Vendredi 23 août 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Friday 23 August 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Vendredi 23 août 1996

*The committee met at 0904 in room 151.*

## RENT CONTROL

FORT YORK NEW DEMOCRATIC PARTY  
RIDING ASSOCIATION

**The Chair (Mr Jack Carroll):** We will get started. Mr Marchese is not here, but out of respect for those who have showed up on time, we will begin. Our first presenter this morning is Jim Rootham of the Fort York New Democratic Party Riding Association. Good morning, Mr Rootham.

**Mr Jim Rootham:** Good morning, ladies and gentlemen. I would like to thank the committee for this opportunity to examine the proposal for changes to the tenant protection system in Ontario. My name is Jim Rootham. I'm a member of the executive of the Fort York NDP Riding Association.

I spent six years as the chair of the finance committee of the Alexandra Park housing co-op. In this position, I was responsible for all the financial planning for the co-op. This experience gave me a good understanding of the economics of operating rental housing in Toronto. In preparation for this presentation, I have read the Lampert report commissioned by the government and the New Directions paper. The New Directions paper raises several goals. I am going to focus on one in particular.

On page 1 of New Directions, one of the goals listed is to "create a better climate for investment in maintenance and new construction, therefore creating jobs." The solutions proposed in New Directions and the Lampert report will not meet this goal. The underlying assumption in these reports is that an unregulated rental industry will produce enough accommodation to meet everyone's needs. The whole point to relaxing regulation and accepting the consequent increase in prices is to generate more supply. The Lampert report is entirely a plea for everything to be given to landlords so that they will produce housing, but even the Lampert report closes with a gloomy estimation of the effectiveness of the deregulation proposals. The last sentence of the Lampert report, on page 69, is, "However, it seems likely that the regulatory changes alone will not be enough to stimulate substantial amounts of rental investment in Toronto, which presents the most serious problem for rental supply in Ontario."

It is important to note that there are no examples in the history of large urban areas of unsubsidized private rental accommodation housing the complete population at a standard that we now consider necessary. The classical examples of unregulated housing markets at work are the factory towns in the 19th and early 20th centuries. Most of the housing for the working classes in those places

was described as slums. It seems likely that going back to the same kind of economic strategies that produced slums then will produce slums now. Any legislation based on the New Directions paper or the Lampert report really ought to be titled the Slum Lord Protection and Encouragement Act. I find it difficult to believe that you're willing to be seen to be promoting policies that have these effects.

New rental accommodation is so much more expensive than older accommodation that it cannot effectively compete in the marketplace. The level of rents required for profitable new construction cannot be sustained by any economy, much less one in which the incomes of many people are under attack. It costs a lot to build new rental housing. Most people cannot afford the rents required to pay those costs. The people who can afford that level of rent are much more likely to want to buy a house rather than rent.

I have several charts here to illustrate my remarks. Some of the references in the paper you have may refer to a slightly different set of charts; there was some confusion about that. The first and most basic is the number of rental starts in Ontario from 1971. This chart is from the government's New Directions paper. You will note a dramatic fall in the rental starts in the early 1970s. If we want to encourage new rental housing construction, it is likely to be helpful to understand why construction ceased. In particular, if we assume an explanation for this declining construction that is not correct, it is impossible to create policies that will work. I will consider several possible explanations for this construction pattern.

First, let us look at demand. This chart includes the rental starts for Ontario and the vacancy rates for Toronto, also from the New Directions paper. If demand for housing had fallen off, then it would show up in vacancy rates. However, as we see, this was certainly not the explanation for the decline in rental housing construction. From 1970 to 1972, the vacancy rate was very high relative to the rates that prevailed after 1975. But this is exactly the period in which construction was booming. There seems to be some response to tight supply in the 1985-90 period, but given the much lower rates of construction compared to the early 1970s, it seems that there must be a more significant factor at work. In general, over the whole period, we can say that construction had died but demand was still firm.

Next, let us consider rental rates. This chart includes rental starts for Ontario and the rental price index for Toronto from 1971 to 1995. As we can see, rental rates rose steadily over the period. However, it is obvious that rental construction did not respond to this strengthening of prices.



This chart includes the rental starts for Ontario and the year-over-year rental increases for the period. As you can see, increases in rent are quite low during the early 1970s.

#### 0910

This chart includes the year-over-year increases in rent and all items for the period. During the period of the greatest construction, the rental increases were very low relative to the other inflation in the economy; in other words, the price of groceries was going up faster than the rent. When the rental increases caught up to, and occasionally surpassed, the total inflation rate, there was almost no rental construction. According to classical economic theory, this is a bizarre result. If you will recall the basic economic theory of supply and demand, when prices rise it is expected that more suppliers will enter the market to increase supply. But this did not happen. Rents went up, but units were not built.

The explanation for this peculiar behaviour lies in the government intervention in the rental housing market. As far as private rental construction is concerned, the most critical intervention — or perhaps the removal of an intervention — was the tax reform of 1972. This change removed the accelerated depreciation allowance — capital cost allowance — for rental buildings for most taxpayers. It was left in place for companies in the business of real estate. There was also a change to remove the avoidance of taxes owing on older buildings whose capital cost allowance was now less than the actual depreciation. In other words, two forms of significant tax breaks for investors were removed.

We now have an explanation for the paradoxical behaviour of the rental construction industry. The boom in rental construction had no, or at least very little immediate, connection to the rental market. The builders of rental housing at that time were basically tax farmers. The rewards for constructing new rental housing flowed primarily through the tax system, not through tenants' rents.

The next question to consider is why there is a private rental housing market at all if the only incentive for the private market to construct rental housing is to collect government subsidies. The next chart shows the current profitability of a one-bedroom apartment in Toronto, depending on when it was built.

The revenue line was interpolated from the chart of average rents for one-bedroom apartments in Toronto as a function of the construction date, exhibit 3-14, in the Lampert report. It has been adjusted for other income using the ratios in the Toronto pro forma, exhibit 3-17, in the Lampert report.

The cost line was constructed from the same Toronto pro forma in the Lampert report. It was adjusted in two significant respects. The rental unit was converted from a 1,100-square-foot two-bedroom unit to a 950-square-foot one-bedroom unit. This was done to be consistent with the chart of average rents by year of construction. The other significant adjustment was the addition of 3% of rent allocation for replacement reserves; for example, a new roof or replacing all the balconies. This corresponds to my experience of the requirement for major

replacements which are not covered in the Lampert pro forma. This is a conservative adjustment. I have also included vacancy loss as an expense rather than a reduction in income.

The historical costs were derived from the current costs by the use of the construction costs index, exhibit 3-11, and the land costs index, exhibit 3-12, from the Lampert report. In the years prior to the data available in the report, I used the Toronto cost-of-living index.

This analysis could be considered a little crude. Given access to more historical data and the actual, as opposed to the estimated, costs of constructing one-bedroom apartments, it would be simple to improve on it. However, the fundamental structure of the situation would not change.

You will note that the profitability of older rental units is substantially higher than that of new ones. Given the cost structure of rental buildings, this is very much to be expected. The declining-balance method of paying mortgages contributes to this. As time goes on, the amount paid in interest declines, eventually dropping to zero. The costs of rental buildings are dominated by the initial construction cost. As inflation occurs, even at a very low level, the costs of old buildings drop dramatically compared to new ones. This is the fundamental reason why new rental construction is unprofitable while the rental business as a whole is very profitable. New buildings don't pay; old ones do.

This chart also has implications for the economics of investment in building maintenance. The older buildings which are supposed to be in need of more money for large-scale maintenance projects are the very buildings which are generating a profit. The profitability of a building is not necessarily an economic incentive to spend money on maintenance. The only purely economic motivation for increased maintenance expenditure is an empty or potentially empty apartment. In a time of low vacancy rates, unscrupulous landlords make more money than responsible ones, since they spend less and can charge as much.

This chart also brings to mind one of the effects of a recommendation in the Lampert report. Lampert suggests that the property taxes be reduced on rental buildings to the level of owner-occupied dwellings. Lampert does not address the issue of where the resulting revenue decline would be made up. If this change is implemented in the absence of a regulated reduction in rent, the owners of older buildings, and eventually new buildings, would enjoy a substantial windfall profit. This proposal is not mentioned in *New Directions*. Reducing taxes is a form of public subsidy. Lampert and this government would probably balk at that characterization, but even Lampert recognized that public subsidies are required to make private construction an attractive investment.

The same kind of windfall profit, but a much larger one, would also be created by a rental regime in which the rents were high enough to finance new construction. However, given the increasing polarization of incomes, renters are simply not going to be in a position to pay the kinds of rents that the gap on the right-hand side of the graph illustrates.



Indeed, renters are already having difficulty with the current level of rents, as is illustrated in the Lampert report by a chart showing the growing percentage of renters paying more than 30% of income on rent. It has risen from a low of 20% of renters in 1982 to more than 35% of renters in 1995. I would strongly suspect the proportion is even higher today. The 30% standard, by the way, is Canada Mortgage and Housing Corp's determination of when a household is in core need with respect to the cost of their housing. In other words, if you're paying more than about a third of your income on housing, you're paying too much.

Given all these difficulties, when does rental housing get built? The only time rental housing gets built is when governments invest money in it. This can be via the tax system for private construction or direct subsidies to private construction or direct government investment in public or cooperative housing.

The proposals contained in New Directions won't stimulate construction of new rental housing and will serve only to drive rents up and reduce the supply of affordable housing. The government's stated intention is to stimulate new construction, but even the report used to justify this proposal is dubious about how effective it will be.

I'm asking the Legislature to turn down the government's proposals simply because they will be ineffective in achieving the goals set out for them. They won't work.

**Mr Mario Sergio (Yorkview):** Thank you for your presentation. You have brought excellent information to the attention of the committee. I have one question for you. One of the objectives of the proposed tenants' reform package here — I'll just mention three, and I would like to have your comments for the benefit of the committee here. One of the objectives is to protect tenants from unfair and high rent increases, harassment and unjust evictions and to provide strong security of tenure. The second one is to focus protection on tenants rather than on units, and the third one is to provide a faster, more accessible system to resolve disputes between landlords and tenants. As part of a ratepayers' association, I wonder what are your comments with respect to some of the objectives of the package.

**Mr Rootham:** The objectives are certainly worthy. The question about whether or not this particular set of proposals is going to achieve those objectives is I think substantially at question.

I particularly focused on a slightly different objective. My understanding is that many people have been making comments about the likelihood of these proposals meeting the objectives you've talked about, and my sense is that the conclusion is that these proposals simply won't do those things either. So while the first page of objectives is considered to be quite wonderful and sweetness and light, when you get into the nitty-gritty, there seems to be a complete failure.

**Mr Rosario Marchese (Fort York):** Jim, thanks for coming. I'm not sure whether you were here when Professor Hulchanski was here.

**Mr Rootham:** My understanding is that we basically agree except that I don't think there was ever any effect of demand.

**Mr Marchese:** I praised him for demystifying some of the concepts and assumptions, and I want to do the same with your presentation. I want to say Fort York NDP is well represented by you this morning.

**Mr Rootham:** Thank you.

**Mr Marchese:** He said yesterday that what the effect of this proposal would be is to transfer money from the tenants to the landlord. Is that a fair statement?

**Mr Rootham:** That is an absolutely correct statement.

**Mr Marchese:** On the issue of demand and supply, part of the problem, just to get your reaction to that again — he said that the reason there is no supply is because there is no demand, people don't have the money to buy, and essentially if you want to create that demand what you have to do is give all those giveaways, as the Lampert report says, to the developer, but even if you do that he says that what will be built will not be at the low end but at the high end.

**Mr Rootham:** That's certainly true. Except under conditions of extreme overcrowding, building for low-income tenants is not particularly profitable. In the limit you can be profitable, but at that point you're talking about the cages of Hong Kong. Those probably make money.

0920

**Mr David Tilson (Dufferin-Peel):** Sir, you represent Mr Marchese's riding association and I can tell you that the facts are to date that your government's housing policies over the last number of years have simply been an absolute disaster. They've gone nowhere. Facts have been presented to these hearings that still more than 10% of all rental stock needs substantial repair work; there's still more than \$10 billion in repairs needed to rental buildings across Ontario; there's all kinds of apartment buildings around this province with literally dozens of work orders for maintenance; there's buildings with hundreds of work orders that are outstanding.

The most important fact that's been presented is that last year only 20 private-sector rental units were built in the city of Toronto. Across the province I don't know what they were, but I'm sure they were not much substantially higher.

**Non-profit housing:** If you witnessed any of the hearings from the Provincial Auditor or the public accounts committee, they show that that whole program was an absolute disaster. It was completely wasteful. In fact in some cases it approached fraud. A taxpayer paying for these things, that policy didn't work. Tenants continued to come to these hearings talking about unsatisfactory health conditions and conditions of their buildings and terrible actions that landlords are taking.

Your presentation is almost entirely a critique of this paper. The purpose of this paper is to ask individuals, whatever political affiliation you are, or if you have no political affiliation, to come forward and offer suggestions to improve the housing policies of this province. Do you have any suggestions to improve the current housing policies of this province?

**The Chair:** Unfortunately, Mr Tilson, we don't have time to hear the answers, so maybe he could put those in writing to us. Thank you very much, sir. We appreciate your attendance here this morning.



## MELCHIOR MANAGEMENT CORP

**The Chair:** Our next presenter is Ms Ardel Johnston, Melchior Management Corp. Good morning. Welcome to our committee.

**Ms Ardel Johnston:** Good morning. As the Chair has indicated, my name is Ardel Johnston. I'm a lawyer by training and I have worked almost exclusively for apartment owners for the past six years. As such, I believe that I've developed a good working knowledge of the area, its problems and hopefully its potential.

I have prepared a paper but I'm not going to read from it today. I think that's kind of a boring exercise. I am going to paraphrase some of the ideas in the paper. I hope that you'll have time to take a look at them. Particularly I would hope that you would at least have the time to take a look at the conclusion on the last page and a half.

I'd like to begin today by defining what rent control is. I think there are a lot of definitions of what rent control is. I think from the landlord's perspective rent control is the continued expropriation of income, and therefore equity, without compensation. A lot of the speakers who have spoken in the past few days have addressed the issue as an issue of money as between landlords and tenants, and in effect there is a question of money; that's obviously the basis of why landlords invest. It is a business and we understand the business aspect. However, rent control attempts to address a social issue by putting all of the burden of that social issue upon the landlord.

I've read with interest the comments of Mayor Barbara Hall and Chairman Alan Tonks. The Toronto Sun has reported that Mayor Hall believes that the proposed reforms will kill affordable housing within five years. They quote her as saying that many groups will be severely affected, including seniors, low- and moderate-income families, low-income singles, the hard to house, those who are psychiatric, new immigrants, refugees and single-parent families. I note that list reads like the who's who of social program delivery service.

It seems the municipalities are very afraid of the responsibility of having to provide housing for these groups and the costs that involves. There is no question that these people need affordable housing. What we question is whether rent control is an appropriate method to deliver that service and, secondly, whether it is appropriate for society and governments, be they municipal, provincial or federal, to place the social responsibility for providing affordable housing solely on apartment owners.

On the first point, the delivery of the service to the group that needs the service, the evidence is that rent controls are extremely poor at delivering services to those in need. Take, for example, a situation where the cost of rent in a 100-unit rent-controlled building is \$750 per month. Assume that the landlord could otherwise rent the units for \$850 per month. Perhaps half of the existing tenants could afford to pay that amount and perhaps half couldn't; perhaps they couldn't even afford the rent at \$750 a month. Under the current system, the landlord has no flexibility to adjust his rents. He cannot afford to give

assistance to the needy tenants because he is forced by legislation to give assistance to all.

The government has essentially expropriated the landlord's right to earn \$10,000 of income per month, which incidentally is the equivalent of depriving the owner of about \$1.2 million in equity as evaluated by lenders and appraisers. Presumably the purpose of that expropriation is to assist the needy, but not all tenants are needy.

A good number of tenants are not needy at all. In fact, we recently were given an opportunity at one of the projects which we manage to apply for a CMHC program to improve the building. The project has very low rents and the CMHC program would give landlords money on an interest-free basis forgivable over time in recognition of the fact that the rents would not ever be sufficient to do the kind of work that an older complex requires.

The only catch was that eight units out of the 24 had to be supplied to tenants earning less than \$26,000 per year, which was considered to be the affordable income limit. We couldn't meet that target. Only two of 24 units were in fact rented to people who would qualify for low-income housing. The rest of the tenants were much above that amount.

The second issue I want to address today is the question of fairness.

Nowhere is the disproportionate result greater than in buildings where rents are chronically depressed. We manage one building in the city of Barrie which is located directly on the bay. It has extremely large units; literally everything is included in the rent — heat, hydro, water, parking, taxes. The rent for a two-bedroom unit is currently \$532.

Let me assure you that the waiting list for these units is very long. The landlord can afford to be very choosy when selecting a tenant. Not surprisingly, most of the tenants in the building are professionals, such as teachers or nurses. Some are retirees who cashed in the equity in their homes and businesses and live on their interest and their pensions. Many leave their units vacant for the winter and fly south to sunny climates.

The point is, these people are receiving a subsidy from the landlord's pocket in the neighbourhood of \$5,000 to \$8,000 per year, and we question whether these are the people who could most benefit from this subsidy. Is it fair that the landlord should pay? Is there a better way to deliver a service? With respect to the persons who do need housing cost assistance, I ask again, is it fair that the landlord should pay and are they being served by the rent control program?

Landlords didn't create high unemployment. They didn't cause pensions to be insufficient to meet the cost of living. No one suggests that food stores should be required to hold the line on prices in the face of other independent economic factors.

0930

I've assumed that we're here today in recognition of the fact that the rent control system is not working. What we need is a fair system, one that delivers the service — affordable housing — to the people in need at a reasonable cost, which we believe should be borne by society and not solely by landlords.



What is fair? At the very least, fairness should require that people in a similar unit in a similar building be charged the same rents. This is not the case currently. In certain buildings, for historical reasons that have no relevance today, rents are not equal for equivalent space. The application of percentage-based increases has skewed that difference over time through the miracle of compounding, and that difference has become more pronounced.

We have an example in one of our buildings, where some of the one-bedroom units are more expensive, and now significantly more expensive, than some of the larger two-bedroom units. The price for the two-bedroom units is all over the map in that building. For no apparent reason, some two-bedroom units are more than \$100 more per month than others. There is no rhyme or reason to that. As I have said, the tenants who can least afford to pay are not necessarily the tenants in the least expensive units. For the higher-paying tenants, the status quo is status woe. They would like to see an element of fairness. They don't understand why they are paying more for the same service that their next-door neighbour is receiving.

We strongly urge you to include in the legislation a provision to allow for equalization of rents within a building for existing tenants by allowing landlords to take larger increases on the lower units in exchange for taking lower increases on the higher-priced units. Equalization is not about putting money into the landlords' pockets; it doesn't do that. It's about levelling the playing field for all tenants so that everyone pays their share and receives the same products and services.

Returning for a moment to the case of a building with a chronically depressed rent, the landlords who own these buildings are in desperate need of your consideration. Tenants in these buildings rarely move. They know they have a great deal and they aren't about to give it up. As I have indicated, in one case where we manage a building that is all-inclusive, the rents for a two-bedroom unit average \$532. The landlord must make that money pay for heat, hydro, water, taxes, maintenance, landscaping, snow removal, mortgage, a superintendent, and somehow manage to put money aside for capital improvements. Is it any wonder that maintenance and capital improvements are left undone?

Even if the landlord could somehow finance the improvements under the current system, in all likelihood he won't even recoup his costs. Three per cent of \$532 isn't very much money, particularly if you look at how the system works with respect to the current amortization periods, which are extremely long and require that the landlord take a lot of money out of his pocket up front, with a potential for receiving part of that in return over a very long period of time.

It's not surprising that the owners of buildings with chronically depressed rents have been losing their buildings in this province. Again, the reasons these units are rented for such low amounts is historical. Perhaps the owner secured long-term financing and wasn't raising rents to cover increased interest charges immediately before the rent freeze came into place. Perhaps the owner really believed that rent control was a temporary measure so instead of saving up his money and his work and

doing improvements on a five- or 10-year schedule, he consistently spent money on the building, thereby depriving himself of the ability to earn an extraordinary rent increase. Again, whatever the historical reasons, they are of little relevance today. These landlords are not making big profits. Most can barely get by. They would probably sell, if they could, but who would buy such an investment?

As a group, if we ignore their plight, we do so at our peril. As we have pointed out, these units are not necessarily rented to the needy. We propose that those buildings with chronically depressed rents should be given an opportunity to phase in rent increases over time, perhaps five or 10 years, to allow them to return to a market-averaged rent. That rent could be calculated by the province from the information available to them, pursuant to the new property tax assessment guidelines. This would eventually get those landlords on to an even plane with others and give them the ability to finance necessary capital improvements. That will create employment, which is a happy corollary. Surely this would be preferable to the other option, which is ultimately to lose those units because they are uneconomic to run or to force the landlords to become slum owners, also shortening their useful lifespans.

Next, I would like to address the issue of converting to condominiums or cooperative housing. The first issue that I would like to look at here is the question of what the goal is when we sit here today. Is the goal to simply preserve rental units in the economy or is the goal to provide an affordable housing alternative? I think that apartments converted to condominiums do provide an affordable housing alternative.

If I can own a condominium unit with an equal or lower monthly payment and a chance to develop my equity, shouldn't I be allowed to do that? Shouldn't I have the choice? Hadn't we better be certain that we are not denying opportunity to those single-parent families, singles and low- to moderate-income tenants, before we decide to protect them by preserving rental units? We believe that conversions open up a world of opportunity to those tenants by providing them with a better option.

That said, we understand that condominium ownership is not for everyone. We believe that the legislation should minimize the impact on tenants by giving them a notice period to allow them time to move. That period should be about one year. Longer-term tenants who have an emotional stake in their dwellings should get an extra month's notice for each year of residence. The notice should be the first step that a landlord takes in the whole long process of conversion, and the notice period should run from the first day of that notice, thereby allowing the landlord to comply with all of the other conversion periods while the notice period runs.

Landlords should be encouraged to give tenants the first option to buy their units and should give a rent credit, perhaps to a maximum amount of money or a maximum of six months' rent, to any tenant who chooses to exercise that first option. That would recognize the fact that a landlord has a savings involved in selling to an existing unit holder.



I would like to address, in the time remaining to me, a few issues which were discussed in the working paper and don't really relate to the main portion of my paper.

The first issue is maintenance. We believe that maintenance is the cornerstone to good building ownership but that maintenance is a responsibility that is borne in fact by the tenants and the landlords. While it's the landlord's obligation to do the work, the tenants must bear up to their responsibility to inform landlords when the work needs to be done. The landlord does not live onsite; particularly, under the proposals, does not have access on a regular basis to the unit. What we would like to see is the legislation codifying what is currently good business practice, and that is that the tenants should be obligated to inform the landlord in writing when maintenance is required, prior to having a property standards officer step in.

We believe that frivolous applications should be discouraged by the use of a nominal charge in the range of \$25 to \$50. It should be payable by the tenant at the time the complaint is laid, and when the inspector comes to view the property, if the landlord is indeed in default, the tenant should be entitled to reduce the amount of that payment from his rent, thereby putting the burden of that payment on the landlord's shoulder.

The charge, as I said, should be recouped by way of a rent reduction if the property standards officer believes the call was justified; for example, if it results in a work order or a work direction. As the fines proposed in the paper are punitive, the landlord should in every instance be entitled to be present at the time of an inspection by a property standards officer.

There is one issue that the paper doesn't mention that to landlords is a major issue, and that's the area of cleaning and damages. It has some overlap with maintenance.

Currently, under the changes made by the NDP government in the last legislation, the landlord has no ability to recover the cost of damages caused to the unit by a tenant against a tenant, other than to take them to court. As you may be aware, Small Claims Court often takes two or three years to get a resolution, and then you're left with a judgement that you have difficulty enforcing.

We think, out of fairness to the landlord and to all tenants, who essentially bear the costs of maintenance in terms of repairs to those units out of a maintenance budget, that those costs, where damages are caused by a tenant, should be easily and clearly recoverable to a landlord.

0940

We also believe that the law should mandate the use of move-in and move-out reports so that it is clear what the condition of the unit was before and after the tenancy. We believe that there should be a regulated cost for common cleaning tasks that tenants currently choose not to do, such as cleaning fridges and stoves. I can tell you that if you go into a unit and you find the fridge empty, it's one issue; if you find it full of rotting food, that's a major cleaning issue.

Repairs of tenant-caused damages should be chargeable to the tenant at the landlord's actual cost, and the land-

lord should be entitled to deduct those charges from a deposit which should be characterized as a security deposit, not as a last month's rent.

I know I'm running short on time so I want to very quickly just touch on a couple of issues.

The Landlord and Tenant Act, as it works in Barrie, works very well for landlords, and what we would really hate to see is a new solution imposed that works for Metro that would interfere with what is already a working system in Barrie. I've made some comments in my paper with respect to the small improvements that could be made in that system vis-à-vis timing.

The one major change that we would like to see is the courts having an ability to mandate a settlement arrangement between landlords and tenants where there's a proposal for payment which the landlord is willing to accept, and then to be able to enforce by way of writ of eviction that payment arrangement. Currently that is not the case and the landlord must go back to square one.

**The Chair:** Ms Johnston, you're down to your last 30 seconds.

**Ms Johnston:** I didn't think it would take this long and I really apologize for that.

Having said that then, perhaps if I could just turn you to my conclusions, if you have the opportunity. Thank you.

**The Chair:** Thank you very much. We appreciate your input into our deliberations.

#### BURTON-LESBURY HOLDINGS LTD

**The Chair:** Our next presenter is Richard Burton from Burton-Lesbury Holdings Ltd. Good morning, Mr Burton. Welcome to our committee.

**Mr Richard Burton:** Good morning to you. You're new faces. I'm an old face here. I've been making submissions to these committees since 1975 when we started the temporary rent control then, at the time to complement the federal legislation.

I'm a very small landlord. Together with my brother, I am following in my father's footsteps. We only own 300 units. You guys need me a great deal. We're the builders of Toronto and we're the people who have housed Toronto. I won't cover everything and I didn't really make a formal paper because I want to talk more freely. I thought it would make a presentation that was more sincere, so I'll just touch on a few things.

Decontrol of vacant units: The tenants don't seem to like this. They're afraid they're going to be somehow harassed out of their apartments. But there is a market out there. I'm a landlord, I know there's a market. This first guy here who was talking, he's got economics from Jesse Ketchum public school. He doesn't know anything. I rent apartments. I know what creates vacancies and I know I've got to work awfully hard to rent apartments. I have to keep my rents realistic. I have to keep my apartment very, very nice looking. I have to give a good, clean, painted apartment to a new tenant or I won't rent it. I'll suffer a vacancy. I know that. This guy doesn't, and the tenant committees that are making submissions don't know it. They don't run apartment houses like I do.

There are scads of other vacant units. There are all sorts of condominium units. When rents start getting



around \$700 or \$800, tenants will rent these condominiums, and the owner of the condominium might be renting it at less than it cost him or her. But there are vacant units. There are all sorts of basement apartments, apartments above stores. I've just rented my son who's going to school now here in Toronto a very nice apartment above a store, a one bedroom, centrally air-conditioned for \$520. So I don't know where these guys are getting their numbers from, perhaps outer space.

I wouldn't believe these fearmongers like Kay Gardner who gives us some speech. Here she says, "If we have decontrol we're going to have 60% rent increases." I've honestly got to say, and not meaning to insult the woman — she works hard — I don't think she's bringing all the sandwiches to the party. Rents will only go up by affordable rates. If the landlord tries to get more, then the landlord will have a vacant unit and vacant units don't pay rent and that doesn't pay expenses.

Sure, there are a lot of tenants who are paying too much and who will be paying too much of their income towards rent, and that's very wrong, but you guys have got to help them. They probably also have trouble paying their grocery bills. I know a guy who lives in the Manulife building and a guy who lives in the Lonsdale Towers opposite Upper Canada College and they like rent control. They tell me frankly: "You know what? My rent's only \$2,500 instead of \$3,000." But this guy's still protected against rent control. He doesn't need rent control. I think the idea is to assist those tenants who are poor and give them the money.

This idea of harassment and tenants' fear that they'll be harassed out so the landlord can replace the tenant with a higher-rent-paying tenant I believe is nonsense. First of all there is security of tenure. I think because of this vacancy decontrol, landlords have more to be afraid about than tenants do, and tenants will start subletting their apartments or assigning them. They've been doing it legally, illegally; somehow perhaps they'll be renting it out and the old tenant will still be tendering the cheque to the landlord so the landlord may never know about it. I understand this goes on in New York. So I don't see that happening again. It is fearmongering without any soundness.

Speedy evictions: Up until now evictions have been handled by the courts and there was some reference to the Supreme Court of Ontario many years ago. I understand that's changed and now non-judges will be able to make eviction orders. I'm very frightened of that. These non-judges who have judgelike powers will be somewhat non-professionals. I urge you that when you do get these people, they should be trained and they should have to follow proper jurisprudence and stare decisis case law.

There should also be some sort of mechanism for emergency speedy evictions. We had a tenant who was seriously mentally ill. He went outside to attack somebody who he thought was putting electricity into his apartment. He came after him with a knife. Luckily that other tenant happened to be a policeman who could handle himself properly. But this tenant, after he made bail, still hung around and the other tenants were very frightened.

Evictions for non-payment of rent should also be speeded up. A legal aid worker bragged to me two or

three years ago that they can hold up an eviction by as much as three months and squeeze three months' rent out of a landlord, and they do that. I know a lady where it was done. She just rents out three rooms in her house and she was financially devastated.

The concept of maximum rent is a good one and I suggest that you keep it because it's part of a free system. Tenants are still protected by market forces. Tenants are still protected by security of tenure. Maximum rent, vacancy decontrol, it all adds up to a free market and the free market will mean that units will be built. When we get into this units will be built, there's been criticism, "If we remove rent control alone landlords won't build," and that's right. But there are so many roadblocks, and I know because I'm a builder and I'm a landlord.

We even tried to build some infill units to use some unused garage space to build units, but there are just too many hassles. There are all sorts of taxes, lot levies, special assessments, the buildings department and of course the higher realty taxes which are three or four times the rate of private units. Kay Gardner doesn't tell her tenants that the municipal government is responsible for each unit paying about \$1,000 a year in taxes.

#### 0950

So make the rent control easier and remove all the other multiple roadblocks and disincentives. Make it easier for landlords to build and you will have units, and then you'll have a market. Wouldn't it be great if we had here a price war like there is with Pepsi-Cola and Coca-Cola with apartments? Boy, there would really be lower rents and better apartments.

I think most urgent — I was talking about it before — is the government's got to get out of the building business because you guys don't know what to do. You don't know how to build apartments and you don't know how to rent apartments, and whenever you do you mess it up badly. It costs double, triple, four times as much for you to build and rent apartments, and the figures are not secret.

There were some buildings at Bathurst and Eglinton, again a Kay Gardener child, and you guys ended up paying well over \$100,000 to buy these units and to fix them up. And by the way, the repairs you did there was what was generally frowned upon when the private sector did it. You were well over \$100,000 and you didn't add any more units. The private sector knows better. They're far more cost-effective. They're far more diligent. Let us do it because we know what we're doing and frankly you don't. You guys govern and leave the building business to us.

Looking back on my notes, it's a fear that only high-end units will be built. That's probably right, but if high-end units are built, then the lower-end units will be freed up. Those landlords, to stay competitive, are going to have to fix up those buildings and keep their rents reasonable or they'll be vacant. That's all I've got to say.

**Mr Marchese:** Mr Burton, needless to say, I disagree with you and with the previous speaker whom we didn't have a chance to ask some questions. But I'm glad you're bringing all the sandwiches to the party, because somebody should, obviously.



**Mr Burton:** You must be an NDP.

**Mr Marchese:** How did you guess that?

**Mr Burton:** Because you don't know what you're talking about.

**Mr Marchese:** It seems here, Mr Burton —

**Mr Burton:** Are you a builder?

**Mr Marchese:** It seems that you and the free-market Tories who support you are the only ones who understand, and it seems as well that all the other people who have come in front of this committee don't understand because, first of all, they're not landlords and they're not builders. So thank the merciful Lord that you're here with all this wonderful builder and landlord knowledge to enlighten us, those poor folks of us who are here and listening and have come as deputants who know nothing about it.

Professor Hulchanski says the reason you are not building is because people can't afford it. Their wages are down; they're unemployed, and largely by Liberal and Conservative policies. They're not building because people can't afford to build. Then you say — Mr Hulchanski says that even if you give all the giveaways that you want — that this is where you want government to intervene, very interestingly enough — you'll be building at the high end and you seem to admit that — and then you say you'll free up all the other units. What other units? The Rental Housing Protection Act which protects those rental units — are likely to be converted, likely into condominiums, they say. What units are going to be freed up?

**Mr Burton:** I don't think they're going to all be converted. You see, again, you don't know. You're not a builder. You don't have a clue. What was your job before this?

**Mr Marchese:** I was a teacher many years ago.

**Mr Burton:** Of course you were a teacher. You know nothing about building and about running apartments.

**Mr Marchese:** Thank God you're here.

**Mr Burton:** You're all the same, all you teachers.

**Mr Marchese:** Thank God for bringing the sandwiches to this party, because you're the builder and you know and all the tenants don't know anything.

**Mr Burton:** I guess we also have to thank God that for some reason He found a purpose for you, because you don't know what you're talking about.

**Mr Marchese:** Thank you for coming in and protecting tenants, Mr Burton.

**Mr Wayne Wettlaufer (Kitchener):** Mr Burton, I have a question relating to a government-sponsored non-profit home — not home, an apartment — that was built in my area. It was completed last year and I had occasion to visit, attend the opening. This building was 200 feet long, roughly, built for seniors, and there were no sprinklers in the building, there was one fire extinguisher at each end of the building on each floor, the windows were very narrow, too narrow for a senior to get out in the event of a fire. I wonder if you could comment on that type of fire protection, in view of the fact that a private builder would probably have to do more.

**Mr Burton:** I guess the building shouldn't have been built. Somehow, some municipality approved specifications that they should not have approved. I can tell you

now, in my buildings, which are about 35 years old, I'm spending now — they happen to be low-rise, so I fall under a less stringent part of the fire code — \$600 or \$700 a unit to bring them up to code. If some municipality messed up here, then you should definitely go after the building. I certainly want to keep my buildings safe. I know my insurance company is also knocking at my door all the time to make sure that the buildings fall within the code, because they obviously don't want to be having to pay out if there is a disaster.

**Mr Wettlaufer:** But this was the previous government's code, under which this building was built.

**Mr Burton:** Yes, but the code is changed now and all landlords are required to bring their buildings up to current code.

**Mr Wettlaufer:** It's only one year old.

**Mr Burton:** Then something went wrong, somebody made a big mistake, probably the municipality.

**The Chair:** Thank you, Mr Wettlaufer. Mr Curling.

**Mr Burton:** I know Mr Curling from the old committee days.

**Mr Sergio:** He's a champion.

**Mr Alvin Curling (Scarborough North):** The good old days.

**Mr Burton:** He's a good guy, and he's getting better looking.

**Mr Sergio:** Of course; he's a Liberal.

**Mr Curling:** That's my time; watch it.

Thank you very much for your presentation. You said that the government should get out of the housing business. You are consistent with Mr Leach, the Minister of Housing, who doesn't want anything to do with housing. I think government should play a very, very strong and important role in Housing. Tell me, Mr Burton, could you name one property that the government has built in the last, say, 15 years?

**Mr Burton:** A property the government has built?

**Mr Curling:** Yes.

**Mr Burton:** No, I don't know them, but I know they —

**Mr Curling:** They haven't done any. Because when you say they don't know about building, people have this perception that the government is building. It is you and the developers who are building it. All the government has done is support it, mortgage it.

**Mr Burton:** Then they're —

**Mr Curling:** I just want to make that very plain.

**Mr Tilson:** The Ministry of Housing operates those. They supervise the buildings.

**Mr Curling:** The fact is, even if there are no elevators or what have you, or it is badly done, government isn't building any buildings. I want to get that very clear.

Tell me one other thing. Do you believe, Mr Burton —

**Mr Burton:** Wait, let me answer that one. There might not be government masons and carpenters out there —

**Mr Curling:** You told my colleague that he's a teacher —

**Mr Burton:** They're still so mixed in there that they are creating a cost for that building that the private sector wouldn't create. They're getting into these co-ops. These co-ops are the greatest thing because they've got 5% mortgages. That money doesn't come from outer space;



it comes from taxpayers. I don't care from what level of government, it's still my pocket and other taxpayers' pockets.

**Mr Curling:** So you agree the government is not building any of these and they are not contractors themselves.

**Mr Burton:** Okay, next question.

**Mr Curling:** Do you believe that it is a right for every individual in this province to have access to decent, affordable and safe accommodation? Is it an inherent right?

**Mr Burton:** Absolutely, and those who can't afford it, help them, but don't help the guy who lives in the Manulife building at \$3,000 a month. He doesn't need you and he shouldn't have you. Just give the money to the needy and also help them with their groceries and to buy diapers for their kids too. It's stupid. You guys are giving away scads of money to people who don't need it and you're running this mammoth rent control machine. I don't know how many millions it costs.

**Mr Curling:** But the maximum rent is a powerful —

**The Chair:** Thank you, Mr Curling.

Thank you, Mr Burton. We appreciate your attendance with us today and your input into the process. Good day.  
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#### WEST SCARBOROUGH COMMUNITY LEGAL SERVICES

**The Chair:** Our next presenter is Sheeba Sibal, from West Scarborough Community Legal Services. Good morning. Welcome to our committee.

**Ms Sheeba Sibal:** Good morning. My name is Sheeba Sibal. I work with the West Scarborough Community Legal Services. I'm a community legal worker there.

Our clinic serves west Scarborough, which is bounded by Victoria Park and Midland, and Lake Ontario to Steeles. We're a non-profit organization and 50% or more of our caseload deals with landlord and tenant issues. Our clinic is also involved with the Scarborough Tenants Association and we have firsthand knowledge of all the problems the tenants face when they're trying to get property standards inspectors out to inspect their buildings.

I live in Scarborough and have lived in low-rent, affordable housing and have tried to get into high-rent, non-affordable housing, but the landlord didn't want me there. But that's a different issue.

A number of tenants and tenant advocates have already presented extensively to this committee their views on the proposals in New Directions and have essentially informed the government that they don't like it, that they don't think it's tenant protection. We endorse those views. In fact, we specifically endorse the reasoning and recommendations made by the following organizations: the Legal Clinics' Housing Issues Committee, the Tenant Advocacy Group, the Federation of Metro Tenants' Associations, the Coalition to Save Tenants' Rights, United Tenants of Ontario, the Advocacy Centre for the Elderly, and the Scarborough Tenants Association, which will be presenting its brief this afternoon.

We also want to endorse the submissions made by the Tenant Advocacy Group regarding the tribunal issue

which was given separately, prior to the hearings, to the ministry itself.

We believe New Directions is not the vehicle to give any incentive to landlords to build more. It's really a fraud on the tenants. The first issue we take with the government is with the process in which this whole thing is being carried out.

First, the government decided by itself that the private market solution is the only solution. They went and hired a consultant who only consults with landlords and builders, does not have any input from the other players who will be affected and gave the report to the government, which the government put in their New Directions package. The government paid Mr Lampert. What is it doing? It's taking taxpayers' money and giving a mouth-piece to landlords to lobby the government. Where's the fairness in all that?

What the government should have done was to get a commission, get all the parties at the table and get their views out, then prepare some sort of package to present to the public to give their opinions on.

We see three separate issues. One is creating more housing stock, the second is repairing and maintaining existing stock and the third is better administration of rent control and the Landlord and Tenant Act.

In so far as the first issue is concerned, creating more housing stock, getting rid of rent control is not going to solve it. Most builders have said so. What they really want are incentives, so what we're looking at is that the government will have to put out some money to landlords to make it profitable for them to invest in rental housing. The government willy-nilly will have to get into the housing market. They don't want to do non-profit housing, but they will have to give money to the builders.

Second, landlords say there is no money now in their pockets to maintain the buildings that have fallen into disrepair. The government doesn't want to put out the money to help those landlords, which is fair. The landlords should have done that in the first place. Where are we going to get that money to get the landlords to maintain their buildings?

The third issue, as I said, is the administration of justice. Administration of justice is never cheap and never will be. If this government is trying to look for a cheap solution, it never will find it. So long as this economy is governed by the motive of greed, you will not find justice, you will not find fairness and you will not find compatible relationships between landlords and tenants.

To give just one example of what this process has started in the relationship between landlords and tenants, this is the first thing we heard yesterday when a couple of tenants called us. They are long-term tenants in this particular low-rental building. They wanted to switch their apartments for some family and personal reasons. They approached the landlord, the landlord agreed, everything was done and the paperwork was ready. They are to move into different apartments in the same building on September 1.

Lo and behold, a couple of days ago the superintendent walked to these tenants and said, "If the New Directions package proposal goes through, will you sign an agreement now that your rents will go up?" What were the



proposed rent increases? For a one-bedroom, from approximately \$450 to \$850; for a two-bedroom, from approximately \$600 to \$900; for a three-bedroom, from approximately \$950 to \$1,200. This has started now, when there is no legislation. What's going to happen when the legislation actually passes?

The second issue has nothing to do with the package but shows you how the landlords manipulate the system. When the economy went into a depression, the fact is that a lot of people lost their jobs and couldn't afford the rents they were paying. A lot of rental buildings got very high maximum rents even though those buildings were not properly maintained, and in an open market they wouldn't fetch that rent. Landlords, realizing what the situation was, started offering discounted rents. What was the catch? They would make the tenant sign an agreement together with the lease saying, "Give us post-dated cheques for the 12 months you're signing the lease for," which is illegal under the Landlord and Tenant Act — they cannot demand it, but it was a separate agreement, you see — and several other clauses like no pets and things like that, which are also illegal under the Landlord and Tenant Act.

If the tenants complied with those conditions, then the discount rent would apply. If the tenants did not go along with those conditions, they would have to pay the maximum legal rent, which could mean a difference of about \$200 to \$300 between what they were paying and what the maximum legal rent was.

What was the effect? The tenants kept their noses clean. What does that mean? They did not ask the landlord to do any repairs in their apartment, and someone just suggested it should be mandatory on the part of tenants to ask the landlord for repairs. They do want to. They can't, because if they do they know that, come next year, the landlord is going to increase the rent above the maximum legal rent per the guideline, which they cannot afford. That is what is happening in the real world out there. You sitting here don't know it. This is what we're doing to bring it forward to you.

**Mr Marchese:** Mr Burton knows. He's a builder.

**Ms Sibal:** Yes, he's a builder.

Let's talk about Scarborough. We have approximately 28,900 units in high-rise apartment buildings — private rental units, not non-profit and MTHA. This is just private rental. It translates into 650 high-rise buildings. What do we have? We have 12 property standards inspectors in the city of Scarborough, and only two inspectors are assigned to high-rise apartments. What does that translate into? Only one inspection per year of a building is done. That is if the property standards inspector is not hauled away on an emergency call and the regular inspection goes by the wayside. Landlords know that nothing is going to happen to them. Work orders will come and go but landlords will live on forever. Nothing is done.

You're giving more powers to the municipality. That's an excellent start; that is good. Hopefully they will get an incentive to do some work, but it will not happen unless and until they have more resources to get more inspectors. The province isn't willing to give that. You're giving powers without the clout. What's the point?

Inspectors are not going to be effective unless there are more to do the job.

I have given 10 recommendations in my brief. I don't think I will have the time to talk about all of them but I suggest that you have a look at them. They are on pages 7 and 8 of my brief.

Let's talk about solutions. I don't know the gentleman's name, but I noticed him asking several times, "What's the solution?" I'm not Mr Lampert; I am not a builder; I am not an architect. I don't know the economics of all this but I believe I have some common sense. This is a home-grown solution that we've thought about and maybe the government should look at it. We say, give landlords the cash incentive that is needed.

**1010**

There was a speaker on the first day, a Mr Goldlist, who suggested getting rid of the 7% GST and, "Don't give us sales tax and reduce the property taxes," a few thing like that, an endless list. I know the federal government is the one which handles the GST, so the province can't do much about it. I'm not sure if this government wants to get rid of the sales tax for the builders, and it's the municipalities that will make a big noise if property taxes are reduced.

It's a tough political situation. So what do we have? It's back in your laps. The province has to do something about it and you have to put out some money. You'll have to figure out how much money you want to spend. You'll have to get an idea from what the builders want, and the province will have to figure out how many units are actually needed to alleviate the market so that the vacancy rate is not so low.

The other thing the government should take into consideration is the impact, that the need for more units is not equal across the province, that 60% of the building stock is concentrated in four major cities: Toronto, Ottawa, Sudbury and Windsor. This was from a study done by the Co-op Housing Federation. We're talking major stock in four cities and the other 40% spread across the rest of the province. What are really affected are those metropolitan cities or cities where there is a larger population concentration. You can't expect a builder in Barrie to say, "I'm hurting." There are not enough people living there. They will hurt.

What's the solution? We're saying, give some cash incentives to builders and let them start building rental housing, but it's not going to be a free-for-all thing: "Here is the money. Build, and let's forget about it." No. It's got to have some conditions to it.

The 2% increase, the rent under the heading of capital expenditure that the landlord gets every year, should be pooled in a capital reserve fund. This condition will be applicable to all landlords of new buildings and all existing buildings under rent control. Every item of capital expenditure has a lifespan, so a builder or landlord should have a fairly good idea of staggered times, when the next item will need to be repaired or replaced etc.

They can, when that particular capital expenditure is needed, put in a submission to the funding pool and get the money. Under no circumstances will they be allowed to get money for any other reason except capital expenditures or before it is actually needed unless they can show



that damage was done because of an earthquake or a tornado or a flood or things like that which the landlord has no control over.

We say keep rent control but guarantee to landlords a percentage of profit over the inflation rate. Because capital expenditures will be taken from finances available in the pool, there will be no need for the ministry to calculate the costs-no-longer-borne provision which they are saying is administratively too expensive.

We say retain the provisions for the above-guideline cost of 3% and the two-year carry-forward, not more than that.

We also say that the landlord should be obliged to get a licence. Like any other business, if you operate a business you get a licence. You get a licence to be a landlord, to run your building; you pay a fee to the municipality to get it. That licence will be renewed at the regular fee if there is no work order. If there is a work order pending against you, you will get the licence but at a higher fee.

When it turns out that the licence has been given to that landlord at a higher fee, it means there's something wrong with the building. It could be because there's a problem with the maintenance or that the landlord doesn't want to invest or there's some other problem. At that point in time the landlord will have to submit to an audit to see what the problem is to make sure the expenditure is actually made on the maintenance he's supposed to be doing.

We believe that if the developers are really sincere in building, they should have no problems. They're getting better incentives. But if they're greedy they won't build, and then the government knows what the intentions of the builders are.

The second is upgrading of the existing stocks. Where are we going to get the money? We all know when a new building is built you don't need immediate repairs, and we also know that the buildings that do need repairs at this point in time will need repairs but over a length of time. It's not as if all the buildings are falling down on us and they all need repairs today.

There's going to be a plan which will need to be made by the government in conjunction with landlords and the municipalities as to which buildings need major repair, which are really in such a shape that if the repairs are done they can be brought back to standards, those buildings which need to be done now and those buildings which can be looked after five years down the road.

Where the money is going to come from is the capital reserve fund. Once the capital reserve fund starts, there will be money there. People who are putting it into the capital reserve fund won't need it tomorrow. They will probably need it five or six years down the road. So here's a pool of money which the landlords can access. They can be given it by submitting some sort of a plan which should be looked at by the engineers and accountants hired by people from the capital pool reserve fund. See the feasibility of it and then give a loan to those landlords on either an interest-free or soft interest rate.

The landlords would again have to submit to auditing, to see to it that those moneys taken out are spent on what they're taking it for and not invested in some overseas

investment or something like that. Once the restoration work is completed, those landlords will get a licence from the municipality with a clean bill of chit, and the same process would then start applying to them.

This restoration plan that I've suggested can be staggered over a period of time. The interest on the loan, which the landlord would pay to the capital reserve fund, could be utilized to pay for the employees of the capital reserve fund.

The other thing, which I missed in the last bit, was that those builders who sell their properties once they've built it with the incentive, and they sell it for a profit, will return the incentive to the government, with or without interest, it's up to the government to decide. That incentive then can be reused for another landlord.

Who would this government choose to pay? How would they know that this was a good or a bad builder? Go back to your rent registries, look at them, look at those landlords who have taken extraordinary rent increases but not used them in their buildings. You can look at a building and see what the state of affairs is and you can look at your database and see how much money they've taken. Those builders you don't give money to. You give it to the builders who have a good record.

In conclusion, I have to say that if this government is really concerned about tenants, then you will give serious thought to what I have said today. You will either set up a committee to study its feasibility or get a research analyst or someone to do research on this, to look at the cost factors and then make a decision. Don't pass this legislation just like this.

**The Chair:** Thank you, Ms Sibal. You've used up your 20 minutes so there's no time for any questions, but we do appreciate your input into our deliberations..

## ONTARIO FEDERATION OF LABOUR

**The Chair:** Our next presenter is Ross McClellan from the Ontario Federation of Labour. Good morning, sir. The floor is yours.

**Mr Ross McClellan:** Good morning, members of the committee. I'm director of legislation for the OFL and I'm very pleased to be able to make our presentation on behalf of our membership. We believe, as a matter of fundamental principle, that decent affordable housing is the right of all Canadians, that tenants have the right to security of tenure in their own homes and that our governments are responsible and accountable for ensuring that these rights are enjoyed by all our people. It's with that spirit in mind that we make our submissions to your consultation.

For those of you who are interested in trivia, I was a member of the standing committee that looked at the 1975 rent control legislation that was introduced by the Davis government. Since that time every elected government has introduced its own version of rent control. The Davis Conservatives liked rent control so much that they had three versions, the Peterson government and the Rae government also brought in their own versions, and here we are with the Harris government yet again. But this is the first initiative that has the avowed intention of phasing out rent control.



Under the government's proposal in the consultation paper, all new apartment units will be exempt from rent control and landlords will be given a window of decontrol for each rental unit which becomes vacant. Since about 25% of units change tenants each year, this is really a phased abolition of rent control in Ontario. Within four years virtually all units will have been decontrolled.

1020

It's our view that before government undertakes such a major change it should answer the question, what problem is it trying to solve with this decontrol proposal? According to the consultation paper, the heart of the problem set out is as follows, and I'm quoting from the document: "The Mike Harris government knows there is trouble in the Ontario rental housing market. Landlords have no incentive to invest in their buildings. Builders are not building new buildings." If that's the problem the government is trying to solve, it's crystal clear to us that phasing out rent control is not going to solve that problem.

After 20 years of debates about rent control in Toronto, there are really only two schools of thought. One says that problems in the rental housing market, which are real, are caused by rent control and tenant protection laws. It's held by this school that they act as barriers to profitable investment and if they were eliminated the private market would start building rental housing again, and we've heard that argument here again this morning.

The other school argues that rent control is an effect, not a cause, of the problems and a symptom of a rental housing market that is totally dysfunctional and which remains incapable, in straight economic terms, of building affordable rental housing.

Since last fall we've had the report by Greg Lampert, *The Challenge of Encouraging Investment in New Rental Housing in Ontario*, which was commissioned by the government. It's an excellent report, in my view, one which gives an historical perspective and which analyses the economics of Ontario's rental housing market with real rigour and clarity. We disagree with some of Mr Lampert's conclusions which openly and candidly incorporate the agenda of the housing development industry. But the economic facts marshalled by Mr Lampert settle once and for all the issue of cause and effect in relation to rent control.

Mr Lampert answers the central question on page 1: "There is serious doubt whether relaxation of rent controls will itself be sufficient to stimulate private rental investment on the scale required." That's because, no matter how you slice it, the economics of the private rental housing market don't work, for reasons that have absolutely nothing to do with rent control. Mr Lampert does us the service of identifying this reality and pointing out what the causes of the problems really are.

Let me quickly run through this again. I apologize if it's repetitive, but I think this is extremely important.

First, taxes and subsidies: Mr Lampert shows that the huge success of the private housing market in the 1960s and 1970s was the result of huge tax concessions and subsidy programs to housing investors. On pages 28

through 38 of his report, he reviews the far-reaching changes to the treatment of housing investment for income tax purposes that have been introduced since the tax reforms of 1972. A partial list includes major restrictions on the use of capital cost allowances for tax purposes, the abolition of MURBs, the end of the capital gains exemption, the new burden of the GST on the housing industry, land transfer tax and big property tax increases.

On top of the closing of hundreds of millions of dollars worth of tax breaks, the federal and provincial governments have killed a host of grant and loan programs which pumped more hundreds of millions of dollars of tax money into the hands of the so-called private housing market. We can remember their acronyms: MURBs, LDs — for limited dividends — ARP, CRSP, ORCL, ORCGP, and Renterprise — Mr Curling will remember Renterprise. Each of these programs plowed hundreds of millions of dollars of tax subsidies into the private developing industry. All of these programs have been abolished. The so-called free housing market which built so much rental housing in the 1960s and 1970s depended on the steady feeding of tax dollars for its success. When it was weaned from its feeding of tax dollars, starting in 1972, it fell flat on its face and it's still lying there. Again, this is not my analysis, this is Mr Lampert's analysis, and I think people should look very carefully at what he has to say.

Second, development delays: Killing the golden egg-laying goose is only the first of three major economic hurdles confronting the rental housing industry, starting in the 1970s. There's a whole set of additional costs resulting from delays due to the complexity and red tape of the development approvals process. Decontrolling rent will not take one second off the development approvals process or save one penny of cost due to approvals delay.

Third, Mr Lampert points out the obstacle to the supply of private affordable housing created by the high interest rate policy of the government of Canada and the highly restrictive lending practices of the finance industry. Lampert points out that the real mortgage interest rate has been well above 5% since the 1980s as part of the new — not-so-new — zero inflation policy of the Bank of Canada. The labour movement has been arguing for many years now that long-term high interest rates have created a state of permanent recession. The devastating effect on the housing industry is just one more example of the wrongheadedness of that policy.

The only programs which have succeeded in supplying affordable rental housing over the past decade have involved subsidizing interest rates on the part of government down to the level of about 2%, and under these programs — I think my number is right — about 80,000 units of affordable rental housing have been built for families and seniors in Ontario since 1985. Without this additional pool of housing the supply problem in Ontario would be catastrophic.

In the face of these economic facts of life, pointed out by Mr Lampert, the end of subsidies and tax concessions, development delays and usurious rates of interest, what's the bottom line? Mr Lampert points it out: There's a gap of \$3,120 per unit in his pro forma examples between



what it actually costs to build an apartment unit in Toronto and what the market will pay in the form of rent. Those are the basic business facts of the rental housing market in this province in 1996, and these facts have nothing to do with rent control or tenant protection.

The housing industry proposes to solve its economic problem, as Mr Lampert tells us quite openly and honestly, by reintroducing huge tax subsidies to the private rental housing industry. That's essentially his solution, and you've heard that again this morning. The housing industry is proposing a package of reduced development charges, reduced property taxes, reduced GST, reduced CMHC insurance fees and the elimination of the provincial capital tax, and that's their supply program. It has nothing to do with rent control.

The attached table from the Lampert report, called "Overcoming the Gap," summarized on page 6 and detailed on pages 58 to 62 of his report, as set out on page 6 of our document, shows the tax subsidy program of the housing industry. This is their solution to the supply problem: reduce development charges; equalize property taxes — that's a \$1,200 per unit cost; halve the GST payable, etc. It all totals \$2,965 in subsidies per unit. Of this amount, a total of \$200 per unit is projected to come from reform of rent regulations, by which the housing industry means the radical decontrol of rent and a significant diminution of the tenants' right to security of tenure.

It's not yet clear to what extent the government is prepared to adopt the total legislative reform program of the housing development industry, but even if it is adopted in its entirety, 100%, it will still leave a dollar gap of \$2,920 per unit, according to Mr Lampert's business case for an apartment in the city of Toronto.

To say that this is not a solution to the troubles afflicting the rental housing market is a monumental understatement. The government and the housing industry have failed utterly to make a compelling case for decontrol. It's a fact that the housing industry hates rent control and they have reasserted this fact. But it's also a fact that nothing in the fundamental economics of rental housing will change unless the government follows the advice of the housing industry to reintroduce massive tax giveaways and subsidies. The tax giveaways will have to be big enough to eliminate the economic gap of \$2,920 per unit in Toronto, and that's hundreds and hundreds and hundreds of millions of dollars in tax expenditures that's being proposed here. These taxpayers' dollars will be earmarked for the construction of top-of-the-line luxury housing.

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At the end of the day, there really are only two policy options open to government: Government can subsidize the private sector to build luxury housing for the rich — and that's basically what's being proposed by the housing development industry — or government can subsidize the construction of affordable housing for low- and moderate-income Canadians. Mr Lampert's report, I think, has demonstrated the essential truth of this axiom that there are only two possible choices: subsidize at the top or subsidize for low- and moderate-income folks.

We argue that the present rent control regime should continue. It has successfully overcome the excessive

bureaucracy of previous programs, which were based on a bureaucratic review and justification of rental increases. The current system, with an annual hard cap on rent increases, permits the market to operate effectively below the level of the cap, while protecting tenants from unscrupulous landlords. Such an authority as Mr J. J. Barnicke has stated that landlords have been able to make good profits under the existing system, better than 15%, he's quoted as having said.

Turning to the question of tenant protection, we feel that there's even less justification for changes to tenant protection laws than there is for a decontrol of rents. These changes are a fundamental assault on the principle of security of tenure, and like all previous misguided efforts in this direction, they are going to produce turmoil and strife, followed eventually by a recognition that the just demands of tenants for the secure enjoyment of their own homes is an irresistible force. We will limit ourselves to two comments.

Firstly, the establishment of an administrative tribunal to hear cases under the Landlord and Tenant Act will be a welcome step if, and only if, the Ontario tradition of respect for the independence, integrity and accountability of administrative tribunals is respected. The suggestion in the paper that the important quasi-judicial work of an administrative tribunal could be turned over to private contracts is, quite frankly, abhorrent. It's as abhorrent as the suggestion that judicial appointments should go to the highest bidder. I don't see any difference between the two propositions. Hopefully the impartial administration of justice in Ontario is not and will not be put up for sale or out to tender.

Nor should the final interpretation of fundamental legal rights of tenants and landlords be a job for bureaucrats. A landlord-tenant tribunal must be a full-fledged administrative tribunal with qualified members appointed by and accountable to the Lieutenant Governor in Council and with sufficient tenure to ensure independence.

Finally, the proposal to repeal the Rental Housing Protection Act will be a disaster for many tenants, especially in the Toronto area. Many of the victims of economic eviction which will result will be seniors on low and fixed incomes, and it was precisely to protect these folks from this kind of rapacious behaviour that the act was passed in the first place. Repealing the act is simply going to cause an epidemic of economic evictions. Everybody in the city of Toronto knows that. Chairman Tonks, who's not given, in my experience, to hyperbole, has described the proposals as catastrophic, potentially.

In conclusion, we believe that the major changes proposed in the consultation paper will produce a number of major crises in the housing market. Decontrol of rent during a period of historically low vacancy rates will send rates soaring, and there will be an epidemic of economic evictions of the most vulnerable tenants. We'll all be back here in three or four years trying to repair the damage if the government proceeds in this direction.

**Mr Ernie Hardeman (Oxford):** Thank you very much for your presentation. I appreciate the analysis of the Lampert report and I think it's important that the report has been mentioned many times during our hearings. In fact, it was a report commissioned to see what it would



take for the development industry to start building rental housing. I think you outlined that fairly well.

I think the minister said in his presentation on Monday morning that this discussion paper before us is just a discussion document and it is only one of the factors that require addressing if we're going to meet the housing needs.

One of the incentives that we keep hearing will be required is equity in property taxation. Of two similar buildings, one a condominium and one a rental, the taxes on the rental one are four times higher. I guess my question really would be: Is the equality, or evening that out, an incentive to the builder, or is that addressing fairness to the renters, recognizing that everyone does come forward, and rent includes the cost of taxation and as they pay for the rental unit, they're paying their own taxes on their unit. So in making that fairer, is that an incentive to the renter or the landlord?

**Mr McClellan:** Two quick comments: It's an incentive if it's passed on to the tenants. The problem is going to be, though, you will discover that when you try to equalize property tax across the province of Ontario, everything that you take away or give with the left hand has to be given or taken away with the right hand. So the bulge will come out on homeowners. If you take \$1,200 per unit, or whatever the number is, off an apartment in Toronto, somebody's going to have to pay for that, whether it's homeowners or small business people. All of the efforts to reform the property tax system have foundered on that shoal, including the most recent market value assessment proposal in Metro Toronto. So it's a big, big problem that you haven't solved in anything that I've seen yet.

**Mr Curling:** Mr McClellan, it's good to see you.

**Mr McClellan:** Good to see you.

**Mr Curling:** You have a great interest in housing and have been having quite an objective view about that ever since I have known you.

It seems to me one of the things we're talking about is Mr Lampert's report. Maybe this could be a formal request, that before we even proceed in even drafting any kind of paper for the minister, Mr Lampert should appear before this committee so that we could have a good discussion, because of some rather relevant things and pertinent and direct things he has mentioned. In some respects, the housing protection act and this new direction — the tenants are complaining that although what we have in place is not perfect, it should not be scrapped or repealed, and to get rid of it would be disastrous because there are two basic things that must be addressed.

One of the things the consumers are saying is that they're not getting is a good, affordable and decent place to live — in order words, repairs are not being done — and the other is that the new supply is not coming in. If there was a strengthening in this, would you think that one of the main things they would like to see is that repairs are done, and just in commenting — I know the short time I have — that the guidelines that were put in place were done in a way that landlords had adequate funds in order to do that? Furthermore, even when the government went further and said, "There's a 3% that you can also apply for," people have come forward and

said, "It should be 4% now and 5%." Do you think even doing it that way, any kind of repairs will be done and new affordable housing will be built?

**The Chair:** Unfortunately, Mr Curling, you haven't given Mr McClellan the time to answer the question.

**Mr McClellan:** I would just say that perfection is the enemy of the good.

**Mr Marchese:** Ross, I know you're not Mr Burton, who is a developer and landlord and knows everything, and I know you don't bring all the sandwiches to the table either, but you did bring some interesting facts that you drew from Mr Lampert's report, which was well researched. One of the points you made that he also makes is that you can't build unless you give all those tax breaks. Mr Burton says that co-ops take away from the taxpayer at the moment. But he doesn't say, for example, that in order to build, you've got to do what Mr Lampert said, and you've outlined all that long list. I think in the end, you're drawing from that very taxpayer too. Do you want to just briefly comment on that again?

**Mr McClellan:** There are only two choices. You can subsidize at the top end, and that's what Mr Lampert is proposing — a whole new program of tax expenditures and tax subsidies — and that will be successful, but you have to raise the public policy question: Is that the best use of taxpayers' dollars, or is it better to subsidize at the bottom end of the market for low- and moderate-income people? That's a decision the government will have to make. But there's no question that if you want housing supply, you're going to have to subsidize the industry, and Mr Lampert has demonstrated that.

**Mr Marchese:** They know that.

**Mr McClellan:** Absolutely. There's no way out of that.

**The Chair:** Thank you, Mr McClellan. We appreciate your input and your interest in our process.

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#### SPAR PROPERTY CONSULTANTS LTD

**The Chair:** We're going to go to Heather Waese, SPAR Property Consultants Ltd. Good morning and welcome to our committee.

**Ms Heather Waese:** I'm the president of SPAR Property Consultants Ltd, a consulting company that represents landlords across the province. We've provided assistance to landlords with residential holdings from a six-plex to a portfolio containing more than 5,000 suites. Since 1982, the company has represented over 300,000 rental units through four separate pieces of legislation.

Personally, I have lectured on rent regulation before the Law Society of Upper Canada, many landlord organizations across the province, and I've even been asked to speak at some of the programs sponsored for the staff of the Ministry of Municipal Affairs and Housing. Since 1985, I've been a director of the Fair Rental Policy Organization of Ontario.

The paper that I have tabled here today covers a number of issues that were addressed in the government's proposal of New Directions. Today I'd like to speak and just highlight a few of those areas on a brief basis. While the government's proposal has incorporated a number of suggestions that I believe are an improvement over the



current legislation, I'd like to take this opportunity to highlight some of the problem areas only today.

The first topic is that of legal maximum rents. The government discussion paper proposes ultimately to eliminate legal maximum rents. I don't believe its an elimination that will benefit tenants, and I believe landlords most certainly would be unfairly dealt with. Maximum rent is a calculation of all guideline increases and allowable increases had landlords made application to the Ministry of Municipal Affairs and Housing from 1985 to today.

Under the Residential Rent Regulation Act, tenants were afforded the ability to challenge each annual rent increase, even if it didn't exceed a guideline amount. Under the Rent Control Act, that ability was further expanded to allow a tenant to challenge the rent at any time for any rent. Therefore, if a landlord was not providing a reasonable standard of maintenance and repair or if he had reduced a service, the rents would have been reduced accordingly. Therefore, the landlord earned the right to charge those maximum rents.

The previous two governments, which have been equally anxious to represent tenants' interests, have embraced the principle for a number of reasons. First, landlords could reduce a rent for a tenant who is experiencing financial difficulty without fear of any permanent loss of revenue. With maximum rents, landlords, in their preparation of notices of rent increase, if they made an error, had the ability to rectify that error in the subsequent year and still be entitled to charge a legal maximum rent.

Under a system without a maximum rent, a technicality on a notice of rent increase would be void and they'd lose the rent in perpetuity. Landlords could recover for capital expenditures even if they chose not to implement the award without the penalty of losing the amount that they had just earned. It also provided for greater certainty for lending institutions, which in turn assisted landlords in borrowing funds in order to do the capital improvements.

The removal of maximum rents would also negatively impact on tenants. Landlords would be reluctant to discount the rent for their good, long-standing tenants who may be in temporary financial difficulty. Necessary improvements might be delayed if landlords felt that they wouldn't be able to incorporate into a market rent the awards that they had just been given.

Landlords would be compelled to charge the full amount of even a guideline increase for fear of losing that excess amount that they would potentially forgo. I believe this would particularly disadvantage those sitting tenants, because it's a sitting tenant who is more likely to pay a guideline increase rather than incur the inconvenience and cost of moving.

The next issue I would like to discuss is that of vacancy decontrol. This has received a lot of attention, but after reviewing the benefits and disadvantages of vacancy decontrol and then recontrol, I don't believe that the landlords' initial response of optimism or the tenants' response of concern is really founded. Units where the rents are below those for similar accommodation have traditionally maintained low turnover rates. Under the

proposed system, those turnover rates will just further reduce. Landlords will not be able to achieve market rents and tenants will bequeath those units as part of their estate.

At the other end of the spectrum, government statistics show that one third of all rental units in Metro Toronto and in excess of 50% of the units outside of Metropolitan Toronto are not charging the legal maximum rents. On turnover, a landlord may not even be able to charge the current rent that he had been charging the previous tenants. Obviously, vacancy decontrol wouldn't benefit that landlord.

In fact, the system would give incentive to those tenants whose rents are at the higher end of the market to move to either another unit or another complex. It would be possible under this proposed system for a tenant with a current rent of \$1,000 per month but a maximum rent of \$1,200 a month to move across the street and negotiate a rent with that landlord at perhaps \$975 a month. You'd wonder whether that \$25 a month savings would be worth the move. But if that new rent had an original maximum rent of \$1,250, that tenant, by simply making the move, eliminated the maximum exposure he had in his original unit, saved \$25 in his move monthly, and now is in another unit, identical to the first one, that had no maximum rent.

This turnover of rental units at the upper end of the market would result in increased vacancies, perhaps a reduction of rents, certainly loss of maximum rents, and an increased maintenance cost to landlords to prepare units for new tenants. In this case, only the transient tenant would benefit.

New Directions put a proper perspective, I believe, on the issue of maintenance enforcement, and that's the next area I'd like to address. It stated that most landlords look after their buildings; however, from time to time, there are serious health and safety issues that go unremedied. Removing the notice of violation provision and imposing a system of ticketing or laying charges I do not believe is a reasonable response to this problem.

In discussions with property standard inspectors, I was advised that notices of violation are issued for those contraventions that are not a health and safety issue to tenants. Work orders are then issued to the more serious problems and a reasonable time frame for compliance is allowed. Generally, the process worked well. The difficulties arose out of the limitations of the municipality. There were insufficient numbers of inspectors available and the turnover of staff occasionally contributed to a foulup of the system.

I do not believe that the automatic offence system proposed would better address the shortcomings of this current system. Both penalties could be appealed and cause further delays in resolving the problems.

Building bylaws address a wide scope of maintenance standards. In any given reasonably maintained building you will find a contravention today. The landlord may not even be aware of this contravention that exists in his own property. There must be a requirement in the new legislation for landlords to be advised of a contravention and given reasonable time to rectify the problem. This thought was also incorporated under the Rent Control Act.



One major shortcoming, though, of the Rent Control Act was the imposition of permanent rent reductions for inadequate maintenance. I believe it provided little incentive for landlords, once they were penalized, to correct the problem. If a rent abatement was imposed, I think it's more likely that a landlord would act promptly in order to terminate that abatement.

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The Rent Control Act also does not recognize the ability to reinstate rents when a discontinuance of service is restored. For example, some landlords discontinued the service of window washing when the province imposed a new bylaw requiring landlords to install roof anchors on the roof whenever any exterior work was being done. Later, the need for exterior repairs such as railing replacement or balcony concrete work compelled landlords to incur this at substantial cost, and once they had already installed the roof anchors, they would have been most agreeable to restore the service of window washing but for the inability of the legislation to restore the rent. In this case, both parties lost.

One further oversight in the Rent Control Act was the inability for landlords to receive compensation for the provision of a new service, one not previously incorporated in the rents. The most frequently requested service in a hearing of my experience is that of security. Both landlords and tenants would benefit from this increase of service, but the landlord was reluctant to incur such a cost without any compensation even though the tenants were anxious to pay an increased rent for that service. I believe there would be a benefit if thought is given to the incorporation of such a provision.

The paper that I've tabled addresses some other issues and the ones that I've now addressed today in greater detail and I would ask that you read through that and hopefully find some material or at least some thought for the future legislation.

**Mr Sergio:** Ms Waese, thank you for your presentation; very thorough. It seems that among the many concerns that we hear from both tenants and landlords has got to do with maintenance, repairs and communication between the two, partly because landlords say they don't have the money to conduct the repairs and partly because of the system, that it takes too long. If this is the case within the existing legislation, how do you think the problem is going to be solved or improved with the proposed legislation?

**Ms Waese:** I'm not certain that the problem in every case is that of lack of funds and I'm not certain that the problem is even exacerbated by the length of the process, because currently the process is a very short process. But I believe that there is a communication problem between landlords and tenants. They don't advise tenants when they're proposing to do work and so the inconvenience that they're put to, they find an insult. A lot of tenants do not advise landlords of problems that they have in their unit until they are large and annoying problems and that causes personal confrontation between the parties. So I'm not sure that's a legislative issue; I think that's more an educational issue.

**Mr Sergio:** Your mention of giving a landlord a particular time to rectify a problem: What would be a

reasonable period of time, let's say, to fix a railing that is broken and is a health hazard?

**Ms Waese:** I think a responsible landlord would immediately attend to that.

**Mr Sergio:** Something that went to court and the court said, "You've got to do it within six months," and six months go by and nothing has been done, what happens?

**Ms Waese:** Are you asking currently or what should happen?

**Mr Sergio:** Both.

**Ms Waese:** Currently, if a landlord does not comply with a work order, then an order prohibiting a rent increase is imposed, and in some cases, if it's a financial issue, that has little impact to the landlord. I think if a landlord does not comply with a serious deficiency within a six-month period that he's given, then at that point in time I don't see a problem with fines being imposed.

**Mr Marchese:** Ms Waese, can you summarize the recommendations that you have for the government with respect to its proposal?

**Ms Waese:** I thought my paper did that adequately. I had my 10 minutes. It would take more than that to do it again.

**Mr Marchese:** Really? Okay.

You mentioned very briefly that where there's a problem, there's a problem of communication between tenants and landlords often and that sometimes they don't tell you until the problem is really major. Is that something that you think could easily be rectified by a landlord, say, having a meeting every now and then, either once every six months or every three months, to indicate to the tenants that if there is a problem within the unit that they should tell you so that it can be rectified, because you seem like the type of landlord who wants to get things fixed? Is that something that is done or could be done?

**Ms Waese:** Personally, I do, and I advocate it to all of my clients. Certainly during the process of a hearing where a landlord's seeking a rent increase, discussions take place that I hope after the fact continue on in the same lines. I do believe that there is an improvement and an enlightened tenant has a better relationship with his landlord.

**Mr Marchese:** In terms of getting more housing built, I don't think you touched on that. That's one of the main points the government really is talking about, although the real issue here is rent decontrol, for the most part, with other minor things thrown in. In terms of getting more housing built, one of the things Lampert says is you've got to do a lot of things to get the developers to build. Some people on the other side say the co-ops have been a big giveaway and a big tax expenditure, meaning we, the taxpayers, paid. But if we do what Lampert says, in terms of reducing development charges, equalizing property taxes, halving the GST and all of that and eliminating provincial capital tax, isn't that a big tax give-away that we, the taxpayers, would have to provide in order to get the developer to build?

**Ms Waese:** I'm certain that it is, but the economic professionals have addressed that issue, have looked at what impact it would have and actually what resulting



income the government would receive after doing that. It's not my personal expertise, but I think it's something that should be at least investigated.

**Mr Tilson:** I'd like you to talk a little bit about, in the few moments left, the chronically depressed rent issue. The paper does not mention that. Several delegations have mentioned it, and one did earlier this morning. The problem with dealing with it is that when you have a rent here and a rent up here, there is no corresponding benefit for those tenants who are that far apart. The second difficulty is that to do that it could create another bureaucracy which we can't afford. The bureaucracy of the rent control is something we can't afford, and it might create another bureaucracy. The third is finding a universal formula to deal with the chronically depressed rent issue — how you do it, in other words.

Most people have come and said to spread it over three to five years or a period of time. But so far, I haven't heard anyone come forward and say how we would do it. Have you or any of the people you work with come forward with any suggestions that a government such as ours might use in dealing with this issue?

**Ms Waese:** The issue of chronically depressed, as you said, was addressed by so many governments. One actually incorporated it into legislation but never proclaimed it. It is a difficult issue because that's the source of affordable housing. But it's also an issue that those tenants who occupy those units are not necessarily those who need it, and therefore, at least those landlords who are providing a reasonable level of maintenance, what should be awarded a rent in excess of what they're able to charge, perhaps rather than a percentage increase, meeting certain criteria of maintenance, should be entitled to a minimum dollar amount because a percentage of such a small number doesn't really move the increases up to anywhere near a market rent. But again, there would have to be some subsidies for those tenants who occupy the affordable units who really need those affordable units.

**Mr Tilson:** It's a tough issue.

**Ms Waese:** Definitely.

**Mr Tilson:** And quite frankly, with due respect, I'm still no further ahead. Somewhere along the line a formula's going to have to be created and suggestions are going to have to be put forward as to how a government makes sure that the landlord isn't walking all over these tenants and it would be unfair to jump a rent from here way up to here in one bang. That would be really unfair.

But with the proposals of the paper, in my opinion — and this isn't the party's opinion — the issue of the chronically depressed rent is going to become even more exaggerated. I don't know whether you have any thoughts on that.

**Ms Waese:** There are certainly enough interested parties in that area who could put their minds together, because they intend to benefit from that if it's feasible.

**The Chair:** Thank you, Ms Waese, we appreciate your input into our process. Have a good day.

Our next presenter is not due until 11:20 and he is not here, I understand, so we will recess until 11:20.

*The committee recessed from 1100 to 1119.*

## FLEMINGDON COMMUNITY LEGAL SERVICES

**The Chair:** Our next presenters are here representing Flemingdon Community Legal Services, Mr Brook Physick and Mr Butch Windsor. Welcome, gentlemen.

**Mr Brook Physick:** Butch Windsor will be presenting the submission for our legal clinic. Mr Windsor is the vice-president of our legal services. He is also the president of Crescent Town Tenants' Association, which with over 1,300 residential rental premises makes it one of the largest residential rental complexes in Ontario. He's had extensive experience in landlord-tenant matters as well as rent control and is by profession an urban planner. At the end of Mr Windsor's presentation, both he and I will be here to respond to any questions which may be forthcoming.

**Mr Butch Windsor:** Flemingdon Community Legal Services is a community legal clinic with a volunteer board of directors which is funded under the Ontario legal aid plan. We provide legal services to low-income people in our catchment area in specified areas of law focusing on housing, social assistance and immigration. We also provide general legal services to the deaf community throughout the Metropolitan Toronto area.

Flemingdon Community Legal Services disagrees that the rent control system as it presently exists is the disincentive to capital investment that the government claims it is. It is our belief that other factors such as high taxes on residential apartment buildings, the high cost of land, GST costs for building materials, development charges and site plan controls have been more significant in discouraging capital investment in new rental buildings.

Underlying the philosophy of the government's proposals is the premise that the marketplace consists of individuals who freely negotiate and enter into mutual agreements. This is not so in tenancy matters. Inequality of bargaining power was recognized as being a characteristic of landlord and tenant relations some 25 years ago by the Ontario Law Reform Commission. Beyond the innate unequal relationship, tenants are unable to freely negotiate agreements because of the shortage of available apartments as evidenced by the low vacancy rate in Metropolitan Toronto.

Tenants are vulnerable and hindered in their ability to negotiate tenancy agreements maximizing their own self-interests because housing is a basic life necessity for them; for the landlord it is a business. Tenants have limited financial resources and some studies show that actual income is decreasing. Unemployment has remained consistently high in the past six or seven years. Social assistance benefits have been cut. In reality, tenants are forced to enter tenancy agreements less representative of free choice than otherwise because of a low-vacancy market and adverse economic conditions.

The clinic agrees that the current notice period, restriction of rent increases to once per year and the use of increase guidelines should be continued.

We have three areas we wish to discuss and will summarize in brief. They are vacancy decontrol, rescinding of the Rental Housing Protection Act and maintenance issues.



Regarding vacancy decontrol, the problem here is not that tenants who continue to live in apartments will not be protected by the legislation. The problem is that once they move out the rent of a vacant apartment can rise to an amount deemed appropriate by the landlord. This figure may at any time following the initial increase actually provide for a lack of ability by the tenants to use the apartment in the future. Incomes are going to determine their ability to use it. This problem is particularly compounded in a low-vacancy market such as we have here in Toronto. We are also concerned that this ability to set rents will encourage landlords to vacate the apartments for unreasonable reasons and reduce the affordability of the apartments once the rents are increased. We also believe there will be an impact on the ability of tenants or their agents, such as our office, to negotiate any repayment of rent arrears, which is presently being done today.

Rescinding the Rental Housing Protection Act will allow termination for conversions, demolition and extensive repairs without municipal approval. This change will allow for the removal from the rental housing stock of current apartment supply and operate to create greater scarcity. There will be greater competition for scarcer resources and thus higher rents at bargaining time. If the higher rent is not forthcoming, the landlord can simply convert, demolish or whatever.

The government's proposals to deflect the impact on tenants will not alter the basic fact that the rental housing stock will shrink. Extended tenure for sitting tenants only delays the effect. The right of first refusal for purchase of the unit is unlikely to make home owners out of tenants. The basic economic realities will prevail.

It may be expected that this government's proposal by itself will contribute greatly to the depletion of rental housing supply stock as the more affordable apartments are converted to condominiums where developers can maximize profits. It flies in the face of the government's stated concern about the size of the rental housing stock and tenant protection.

To summarize the two points we've made so far, the combined effect of vacancy decontrol and the rescinding of the act will compound the tenants' plight and will further detract from tenants' ability to bargain on equal terms with landlords. On the one hand, rents will be allowed to find the market level in a low-vacancy market, which means they will rise; on the other hand, the government is allowing the depletion of the stock to further decrease supply and so escalate the competition for scarce resources and rents further.

Regarding maintenance, we feel that the elimination of the orders prohibiting rent increases is the elimination of a prime function used by tenants to ensure required maintenance issues are completed by landlords. The legislation's ability to show landlords that maintenance is important was in itself often not effective. Many landlords did little until the order was in place. Removal of this tool effectively takes away the most practical means of ensuring maintenance.

It was a simple system which did not force municipalities into the courtroom and would continue to provide the municipality with an effective means to arrange for

compliance of property standards violations. The municipality's greater authority in property standards matters proposed in the legislation is good for tenants, but its effectiveness requires the OPRIs or an equivalent alternative to be in place.

The legislation proposes to increase the fines for violations of maintenance by landlords, which are ineffective in current court practice that is issuing minimal fines. This means the effectiveness of the implementation of your legislation is undercut by the court system. We have been a supporter of minimum fines. Without it, tenants can be made to live in hell, such as no hot water, water penetration etc.

The proposed legislation is also ineffective for municipalities that do not have property standards or their enforcement. The legislation needs to be very clear as to how this will be handled.

**Mr Marchese:** Thank you both for the presentation. One of the things that has been stated by quite a number of people is that at the present moment about 50% of units are not being charged the maximum allowable rent. When I heard that my point was, if that is so, why do they want to end rent control by decontrolling? If that is the case, why not keep the present system? Is that something you would agree with?

**Mr Windsor:** We have 1,320 units where I live. I don't see that they're charging less than what they're allowed under the law. There are some, but it's been ineffective in the way it's been implemented. Where it has been used, it's created a situation where the rents in the apartments differ greatly. There's up to a \$200 difference in the rents for the same units. The proposed changes will encourage that those units be vacated and then re-established at the higher rents.

**Mr Marchese:** Let me understand clearly: You're supporting decontrol?

**Mr Windsor:** No.

**Mr Marchese:** You're not? Okay. One of the issues that has been raised many times by many other people as well is that by simply getting rid of rent control through this method of decontrol, there's not going to be one housing unit that will be built. A number of experts have said this, including Mr Lampert, who's been hired by the government, although these members never talk about this. They never touch the issue of rent control as an issue that will not build any units, although in the past Mr Leach said that will do it, that will be the incentive for the developers to build. Now none of them is touching it. If that's the case, I wonder why we have this issue here. That's one question.

The second one is that to build we really need to give away a whole lot, and Mr Lampert tells us what we need. We need to reduce development charges, equalize property taxes, have the GST payable, eliminate provincial capital taxes. Those are a whole lot of giveaways that we're going to have to give to be able to get the developer to build. If we do that, isn't that a big giveaway to the developer and won't that cost us taxpayers a whole lot? Is that an opinion you might share?

**Mr Physick:** Are you suggesting that with all of those other factors involved to get developers to build that's going to be problematic for taxpayers?

**Mr Marchese:** Yes.



**Mr Physick:** And that they should therefore decontrol units?

**Mr Marchese:** Oh no, not "therefore," that second part. Just leave that part out of the picture for a moment. What Mr Lampert is saying is that in order to get things built, rent control won't do it.

**Mr Physick:** Right.  
1130

**Mr Marchese:** To get the units built we're going to have to give away a lot, and it's a lot of subsidies to the developer, really. The reason I raise this is because they argue on the other side, the free-market people, that building cooperatives and non-profit housing is really bad; it ruined everybody. We're saying we're the only ones that build that kind of housing, because it's affordable to the people in need.

**Mr Physick:** Right.

**Mr Marchese:** So it's an appropriate thing for governments to do, to spend some money to do that. They're saying: "Oh, that's bad. What we've got to do is let the free market people take care of it." But if we do that, we have to give away a whole lot, and even then, says another professor, what will be built will be units at the high end. I see that as a problem. Do you?

**Mr Physick:** Yes.

**Mr Dave Boushy (Sarnia):** You expressed concern about a tenant moving to another location facing higher rent. Let me tell you, I'm a landlord, not a big one, but I have a success story to tell you. I have a tenant who has been living in a semi-detached home for 12, 13 years. The reason he has lived there so long — he cuts the grass; he paints the home inside and outside. I pay for the paint and the material — because he created his own incentive to stay longer. I only raised the rent three or four times during that period.

The pressure for a tenant, as we're proposing, to stay put rather than move to another location for a higher rent, in my opinion will make the tenant take care of his unit better. He will stay longer, make the landlord happier, and therefore the relationship has become better. Do you agree with that, and therefore the fear you stated is not correct?

**Mr Physick:** No, I don't agree with that.

**Mr Boushy:** Why not? How about my success story?

**Mr Physick:** I'm pleased that you have a success story, but at the same time I think we have to realize that we cannot pass legislation that forces tenants to stay in apartments, because if they wish to move, if their families get larger, if they end up having to move to another community or so on, they are going to end up being hurt by the escalation in the rents, particularly if they move to an area that has a very low vacancy rate.

I think there are a number of situations where tenants do take care of their apartments and they do stay for many years. I think that's clear. Vacancy rates certainly in our area are very low, so when we see the "transiency" rate of tenants, that just isn't the same as it was many years ago. Our legal services are located in a community in North York that has a very high tenant population, and at one time the transiency rate of those tenants may have been three years. It's now 10, 15, upwards of 30. That's longer than a lot of people live in purchased homes. So

I don't see that we need to necessarily bring in new legislation that is going to compel tenants to stay in a particular unit so that they can take better care of it.

Tenancies are people's homes, regardless of whether they stay there one year or stay there 30 years. I don't see how this legislation would be changing that fundamental reality of tenants' lifestyle, but what it is doing is impacting on their choice.

**Mr Bart Maves (Niagara Falls):** In one portion of your brief you talk about conversions and say that the better, affordable apartments will be converted to condominiums where developers can maximize profit. We've had a lot of people talk about there are a lot of people eager to convert their buildings where they're not making profit into condos so they can make a better profit. That indicates to me that there is indeed a problem with the current system which makes that so attractive. Can you tell me what else is occurring that's pushing the move to the condo market for landlords?

**Mr Windsor:** I missed the last part of your question.

**Mr Maves:** If you could tell me what else is occurring. We know about the different tax treatment, four and a half times higher for apartments than it is for condos. What else is happening to push that move to convert to condos?

**Mr Physick:** Other than the tax advantage?

**Mr Maves:** Yes.

**Mr Windsor:** I think there are a lot of issues, repairs being one of them. I can think of an example where we've gone through a fire retrofit recently. Landlords pay those costs. If it was in a condominium-type situation, the actual owners of the apartments would be paying for it. In a sense, once you've sold the building, the profit's there. There's nothing else you're taking out of it. As long as the landlord continues to own the building, those types of expensive repairs that have reason to become important are still being paid. They're reducing the amount of profitability that the buildings have.

**Mr Curling:** Thanks for your presentation. I think Mr Maves should go back and read the Lampert report and also the presentation made by the Ontario Federation of Labour, where they list actually some of the things that impede people from really building affordable housing. As a matter of fact, again I would request that Greg Lampert come before us before we present any kind of legislation, for us to have some interaction with him, because I think the report is quite pertinent to what we're doing.

One of the questions I have and I am not able to get an answer — maybe you don't have the answer. Built within the guidelines all along was — it takes care of profits, it takes care of maintenance, it takes care supposedly of repairs, all of those things that happen, and landlords will come before us and say, "We need 3% more, 4% more in order to do that." Do you know what is happening to that money all along when they're collecting it, because it's \$10 billion? The Conservatives said, "It's the NDP and those Liberals who have caused all those buildings to run down." I thought that provisions were made. Do you know what had happened to that money, why it was not turned in? Is it because of inad-



equate enforcement of work orders? I don't know. Do you have any comment on that?

**Mr Windsor:** We don't see the books in our building. We've always suspected that what's happened is that the money that's been made on the complex has been used to fuel other developments in the condominium field. They haven't been turned back into repairs on the building. It's only with the fact that we got rents frozen that we got a new water system. That had been a problem for over six years. We had to go to the most extreme position that we could take to get the water system repaired. But there was always money being made on the apartments and the money seemed to not be available to do these repairs.

**Mr Curling:** So getting 4% above the guideline now will not stimulate any kind of activity in any better repairs then, so the rundown will continue.

**Mr Windsor:** I'm speaking personally from our own complex, but that seems to be the problem. We had to go to extremes to get repairs done. We had to fight and argue for these things. The fire retrofit still hasn't been completed. There are still problems and it's been ongoing for a long time. Why not fix it, get it over with? How much do you spend by coming back and repairing things over and over again? Like I said, it took so long to get it done. The money that was lost by having the rents frozen would have paid for the water system to be replaced. The landlord would not have been out that money, and in fact he lost twice because we had the rents frozen and then he had to pay for it.

**Mr Curling:** Do you have a comment?

**Mr Physick:** Mr Curling, it's a good question and I think we've all asked the same question many times. In our service we service the municipality of East York and it has probably some of the older rental housing stock in Metropolitan Toronto. We've often wondered where that repair money has gone, not just on the basis of the guideline increase but also on the basis of going to rent control and getting increases for increased maintenance and not doing it.

This is why we raised the issue in our submission regarding the elimination of the OPRIs, which we felt was an important factor that was within the system that would actually act as an incentive to ensure that landlords did those maintenance repairs where they were actually taken out on the buildings. Now clearly there could have been a lot more exercise of the OPRI situation, but in our experience where OPRIs were taken out, it certainly did act as an incentive, and the government intends to abolish that in accordance with its proposals.

**The Chair:** Thank you very much, gentlemen. We appreciate your interest and your input into our process. Have a good day.

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#### COALITION TO SAVE TENANTS' RIGHTS

**The Chair:** The next presenter is the Coalition to Save Tenants' Rights, represented by Gord Stevenson and Nancy Hindmarsh. Good morning and welcome to our committee.

**Mr Gord Stevenson:** Nancy Hindmarsh and myself are community legal clinic lawyers. Nancy formerly

worked in Hamilton and I work in Toronto. We're here to speak to you about the process you're going through today.

The Coalition to Save Tenants' Rights is a coalition of tenants' organizations in Toronto: UTOO, which was the United Tenants' Organization of Ontario, some seniors' groups, the city of Toronto — the NDP and the Liberals had members in the group — and community legal clinics.

What I propose to do is briefly go through our submission. I understand that you've been sitting for a while and have had opportunity to hear tenants' concerns. I'd like to touch on what we feel are the major concerns for tenants, given the proposals that the government is making.

At page 1, I refer you to the four elements that tenants feel must be contained in any legislation in order for it to be effective and defend tenants' rights. First of all, there has to be a cap on increases in maximum rents. Secondly, rent control must attach to the unit, not to the tenant. Attaching it to the tenant is a way of entering into a situation where continuity is disrupted and it opens tenants up to less protection than they are receiving presently.

Thirdly, tenants feel that the Rental Housing Protection Act must be maintained in order to prevent landlords opting out of the housing supply market without municipal input. Lastly, with regard to maintenance, as the previous presenters mentioned, tenants feel that there needs to be some link between the amount of the increase and the repair of the building. To destroy that link, as the new legislation proposes to do, by taking away OPRIs in a sense provides an incentive to the landlord to not make the repair by removing the financial element of the penalty that he would face.

Briefly in relation to vacancy decontrol, at page 2, at the bottom, number I.i: As you're no doubt aware, studies indicate that 25% of apartments turn over per year, so you're looking at a situation where the whole market will be in the majority turned over by the end of five years.

At page 3, number iii: The problem — I heard a previous presenter speak to this — landlords are concerned also about the removal of the maximum legal rent concept. From the tenants' perspective, the removal of maximum legal rent, combined with the application of rent regulation once a new tenant moves in, is going to create a situation where there is going to be enormous focus placed on the initial tenancy agreement.

At the time of negotiation, which we all hope would be between equal parties but which the law reform commission recognized some 25 years ago as not being the case, by these proposals you are creating a situation where there is going to be increased pressure at that focal point in a low-vacancy market when a tenant moves into a new place. This is going to make things very difficult for a tenant in terms of negotiating an affordable rent.

Lastly, the combination of this factor — that is, vacancy decontrol — with the Rental Housing Protection Act repeal, is going to create a situation whereby there's going to be a compounded effect because the removal of the controls for conversion is going to allow for a decrease in the amount of housing supply. This in turn,



in a market of low vacancy and vacancy decontrol, is going to create a situation where there's going to be more competition for fewer units, which in traditional terms means that rents are going to rise. It's going to decrease affordable housing.

Personally, in dealing with the courts, landlords these days will, all thing being equal, make an agreement to settle cases where, for example, the problem is arrears of rent. They'll make an agreement for the tenant to pay it into the future. There is an eviction crisis in that evictions are up 33% from January 1995 to 1996. There will be no incentive for a landlord to settle those cases any more. In a low-vacancy market, when the landlord goes to court he is better off to evict that tenant and put in a new tenant whom he can charge a rent that is not under rent control.

From my own experience and working in the courts, my expectation is that, whether it is a tribunal or courts, landlords will be very reluctant to settle cases they would have done as a routine matter in the past. Also, and perhaps this is fear on my part, I believe that in the future landlords will also take peripheral tenants to whom they may have extended some kind of leniency in the past to court because it's in their economic interest to re-rent the apartment at a market rent in a low-vacancy market.

No doubt, during this week you've heard about the effects of these changes for students and transient populations and disabled people, seniors, people on fixed incomes. This is going to be devastating if and when they have to move. As we know, students move quite frequently.

Moving on to maintenance, as the previous presenters indicated, there is some merit to the government's plan to streamline the process and have the municipalities involved. My concern is that this is occurring at a time when funding to the municipalities is going to be cut, so it's going to put more pressure on the municipalities.

The other problem that I foresee with it, as I mentioned previously, is that in relation to OPRIs you're taking away the financial incentive that connects maintenance with the amount of rent charged. If maintenance is really your concern, why would you take away something that is working in some of the larger municipalities in a way that ensures some modicum of maintenance. To me, it just doesn't make sense and it leads me to question what the rationale is for taking away OPRIs.

Finally, in terms of security of tenancy, I mentioned the Rental Housing Protection Act before, and no doubt many tenant speakers this week have done so. The combination which will allow for buildings to be moved out of rental housing into the private market and buildings — this legislation was passed at a time in Toronto when several buildings were being moved out. If a tenant doesn't know or can't know that his landlord, if he is unable to realize a certain amount of profit he wishes to realize on a building, can wholesale move his building into the private market, it doesn't provide them with security of tenure.

While this is an extreme case, I work in the area in which 1002-1004 Lawrence was. You may have over the week heard that this was the building where George Chuvalo was hired to come in and deal with the tenants,

many of whom were elderly. I'm not suggesting that this is what's going to happen, but in my worst moments I am concerned that taking away the Rental Housing Protection Act will open the system up to abuse by those peripheral landlords who will want to move tenants out.

**1150**

Finally, in relation to access to justice, what we're speaking about is the new tribunal that's being proposed and the court system. We've laid out there the principles that we feel are important to be maintained. There's been some suggestion of this becoming a privately funded or privately run situation. We strongly urge that this not be turned over to the private market. Justice for tenants is equal to justice in all other areas of the court, and the impartiality and independence need to be maintained.

Those would be my comments at this time, subject to that I have some questions I might have for the government members, if time allows.

**Ms Nancy Hindmarsh:** Good morning. I have a few areas of concern I want to flag. Then we have some questions and then we would field some questions, time allowing.

New Directions, to me, is a mishmash of disincentives and incentives. Its purpose and legislative intent are not clear to me. It's called a tenant protection package. I'm very concerned in that it focuses on the unit; it seems to be a product protection package. We forget that the renters are consumers and need protection. It looks as though the rental unit certainly is being focused on and there's a decontrol on it, but we have to remember that rents must be linked to maintenance and landlords must maintain buildings to charge rents. Maybe licensing landlords is a solution here. They have a product; they have to maintain the product. It has to be healthy; it has to be safe; it has to be secure. I don't see that New Directions addresses that.

Another concern I have here is that there is no money. The ministry says there's no money — no money for tax incentives, no money for subsidies, no money for builders and investors in the rental housing industry. If there's no money, then how do we maintain and how do we administer the new tribunal system, for instance, which is going to have to be properly funded with lots of resources? Because I'm not aware of, and I dare the committee to come up with, an administrative tribunal that administers its agency, its department, its ministry as cost-effectively and as quickly as the landlord and tenant courts presently. There's room for improvement in the landlord-tenant court, but as far as processing evictions or abatements is concerned, it doesn't have the delays; there's some backlogging. If we have a new tribunal, that is going to have to have a lot of resources and funding to look at eviction. We're looking at eviction of people out of their homes. This isn't something that we delay for six months until the tribunal can hear it.

For me and the coalition, the New Directions protection package seems to be not particularly well thought out, which brings me to a third area of concern, and that is research. I understand there's no money for research in the ministry and there's no research component. We have a lot of statistics and a lot of them have come from the Canada census — granted, it's census 1991 — and also



from Canada Mortgage and Housing Corp, CMHC statistics. We look at these and determine what the supply and demand of the market is. The market is not something that is just broadly brushed. The market is 3.2 million tenants, and I understand through Chandra Pala at the Ministry of Community and Social Services that 41% of Ontario's tenant households are socially assisted. That's a 1994 statistic; I imagine it's higher now. I understand from the newspaper yesterday that one third of Metro's tenant households have an income of under \$23,000 a year. That's a comparable figure. We're looking at maybe half of the tenants in Ontario are low-income tenants. How are they addressed in this package?

I've used more time than I meant. Go ahead with your questions.

**Mr Stevenson:** I guess the first question that I might have, if this is proper procedure, Mr Chairman —

**The Chair:** Basically, we are here to hear what you have to say, but if you choose to ask some questions, that's fine. Mr Hardeman would be the representative from the ministry to whom you should direct those questions.

**Mr Stevenson:** Mr Hardeman, I was just wondering, how does the government reconcile repealing the Rental Housing Protection Act, which for all intents and purposes is going to reduce the existing housing supply, with its stated intention of creating affordable housing? I don't believe the government has said "affordable housing," but creating housing. I know the government's interested in encouraging new housing starts and they've been a problem. It seems that the two are directly opposed to each other, those two intentions. I don't see how repealing the Rental Housing Protection Act is going to create a larger supply of rental housing stock.

**Mr Hardeman:** I'm not sure that I can take the four minutes that are left for the presentation to go through the total process of dealing with individual issues in the discussion paper. I do want to emphasize that it is a discussion paper, as the Chairman said, to get the comments from the presenters as to what's good and what's bad and what should be changed within the document.

As it relates to the conversions, the process or the intent of the legislation is to improve the housing stock within the province for people to live in. If presently maintaining it as rental stock is decreasing the ability of having it properly maintained for suitable housing, we need to look at alternatives to provide the type and the quality of housing that the people are entitled to, as opposed to just saying it is locked into that and it shall go down the quality ladder until it no longer can be used for housing. We need to provide a way to put that back in a condition where it can be used for the people who presently reside in it.

**Mr Stevenson:** I understand that quality is a major concern of the government, but I don't know that reduction of the existing housing stock is going to make it better for tenants in the sense of accomplishing the goal that the government has stated of attempting to create new housing starts. This is a major concern. I just don't see how the two fit together. I agree that quality is a concern, but it would seem that if the opportunity to take units out of the housing stock exists and there is money

to be made there, it's going to happen and that's going to directly impact tenants. There are just not going to be the number of units, and this is going to happen at a time when vacancy decontrol is in effect, so the market is going to bear the rents. In effect, what you're doing is collapsing the size of the market, which increases competition for scarce resources and drives up the rents. This is the tenants' concern in this situation.

**The Chair:** If you want to finish up with a comment.

**Mr Stevenson:** Thank you very much. We look forward to seeing either this legislation go by the way or the next government.

**The Chair:** Thank you for your input. We appreciate that.

We are now recessed until 1 o'clock.

*The committee recessed from 1200 to 1300.*

#### ONTARIO ASSOCIATION OF CHILDREN'S AID SOCIETIES

**The Chair:** Welcome back. As is our custom, out of respect for those who come to share their ideas with us, we do start on time.

Our first group this afternoon represents the Ontario Association of Children's Aid Societies, Diane Cresswell and Jessica Downton. Welcome to our committee. Should you allow time for questions in your 20 minutes, they would begin with the government. The floor is yours.

**Ms Diane Cresswell:** Thank you for inviting us to appear before the committee. My name is Diane Cresswell, and I am the manager of communications with the Ontario Association of Children's Aid Societies. I would also like to introduce Jessica Downton, my colleague, a youth liaison worker who works with us at OACAS, with Youth in Care Connections Across Ontario, a network of youth in and from care in Ontario.

The OACAS is a provincial association that represents 50 children's aid societies in the province of Ontario. The mandate of the children's aid societies is expressed in section 15 of the CFSA: to investigate allegations of child maltreatment, to protect children and to provide services to families, and then to prevent circumstances requiring the protection of children.

Child welfare is not simply about the investigation of allegations of child abuse and neglect and taking children into care. It is about the early identification of risk and the amelioration, to the greatest extent possible, of the conditions which lead to maltreatment. It is also about galvanizing communities and a whole range of other support services to strengthen troubled and stressed families and to assist in the protection of children where necessary.

The 55 children's aid societies in Ontario provide substitute care to more than 18,500 children annually and provide support and counselling to more than 100,000 families with children each year. We estimate that children's aid societies would come into contact with more than 250,000 children in Ontario each year.

Children's aid societies have been in existence for more than 100 years. Over the past century, we have learned about the causes of maltreatment of children and have developed an understanding of prevention strategies to assist families in crisis. Some of the social conditions



frequently found in families on CAS caseloads are poverty, social isolation, inadequate housing and high-risk neighbourhoods, a family history of abuse and addiction to alcohol and drugs. It is the compounding effect of such conditions that creates the highest risk for children.

Adequate housing is a basic need for all families and a significant contributor to the health and wellbeing of children and families. The children's aid society is one of the few community services that provide support services to families and children in their own homes. Consequently, child protection workers have a bird's eye view of the conditions in which families live and the substandard level and quality of some rental housing.

Housing problems and poverty are recognized as potential risk factors for children in relation to reported and confirmed cases of abuse and neglect. Changes to the landlord-tenant legislation could have a profound effect on two groups of people who are well known to children's aid societies: young families who are struggling to support their children on limited incomes or on social assistance, and young people who are forced to leave their family homes at age 16 or 18.

A significant number of the referrals made to CASs are as a result of evictions, inability to find adequate accommodation and the lack of affordable housing units. The majority of families served by children's aid societies are single-support mothers with low income or on public assistance.

Families who are receiving service from CAS are under tremendous pressures. The additional stress of inadequate and unaffordable housing can compound problems and have a profound effect on the ability of the family to provide a safe and nurturing environment for their children.

The Toronto CASs surveyed their family services workers and recognize that in 18.4% of the cases, the family's housing situation was one of the factors that resulted in temporary placement of a child into care.

Lack of housing should not be a reason to admit a child into the care of the CAS. Whenever possible, the CAS will find both financial and material support on a short-term basis to maintain children and families together. Nevertheless, there are circumstances when adequate housing is not available or where other family members are not willing or able to help the family. As a result, some children are admitted to care. Using foster care in these circumstances is an unnecessary use of valuable foster care resources and an inefficient use of taxpayers' money. The cost of providing service to a child in his own family home is approximately one tenth of the cost of providing service to a child in an out-of-home placement. Separation from parents, even for a short period of time, has long-term detrimental effects, especially on very young children.

For many children in Ontario, the family home is not a safe haven. On any one day in Ontario, there are approximately 9,500 children and youth in care. More than 4,000 of these young people are over the age of 13 and are likely to grow up in the care of the children's aid society as wards of this government.

About 50% of young people in the general population between the ages of 18 and 24 continue to live in their

family home. This is not so for the youth served by the children aid societies. Many are forced to move to independent living situations before they are ready or prepared to do so. Some youth in care may not have any other choice but to live independently as early as age 16. Most young people in the care of the CAS are living independently by the time they are 18 years of age. All youth in care identify housing as an issue.

For those young people attending post-secondary education, only a few gain access to university residences. Even when this is possible, during the summer months many have no home to return to and therefore are forced into inadequate and often costly accommodations. First and last month's rent is an impossibility for these young people.

In a recent survey, Covenant House reports that 47% of 200 young people surveyed who sought refuge there had previous contact with Ontario's child welfare system.

We are not going to comment on all the proposals made in the New Directions consultation paper. We refer you to the excellent written response to the paper submitted to you by the Children's Aid Society of Metropolitan Toronto included in your package that we have distributed today. I will comment on the section of the consultation paper that talks about protection from unfair rent increases.

We support a universal rent control system. We oppose a plan that sets up a two-tiered system that disadvantages a group of people who are at the stage in life when moving residences may be necessary. These are young growing families or youth moving to independence. These are the families that the children's aid societies serve.

The proposals made in the consultation paper provide full protection to sitting tenants and no protection to non-sitting tenants. We believe that adequate housing will remain in the hands of the sitting tenants. We also believe that rental rates for inadequate accommodation will be raised. Having no cap will push rents in Ontario upwards.

Allowing landlords to raise the rents on vacant units with no ceiling or cap will prohibit people on low incomes from being able to move from substandard housing, because it will generally push rents upwards. We fear that some tenants will be subject to harassment and eviction when a landlord is eager to vacate the premises in order to increase the rent.

Families involved with the children's aid societies and young people forced to live independently are among those who contribute the highest proportion of their income to rent. The Toronto children's aid society's submission that is in your package highlights some telling statistics, by comparing average rents in Toronto to the current social assistance rates in Ontario. The charts in appendices 5 and 6 show that it would be impossible for a young, single parent on social assistance, with a child, to afford much more than a bachelor apartment — hardly healthy or appropriate living conditions for a parent with a child. If that same single parent moved to a one-bedroom unit, he or she would spend a significant portion of the basic allowance provided which should be allocated to the necessities of life.



Further increases to rent will prevent families from providing the necessities of life to children and will make families more dependent on food banks, churches and other social agencies. There will be little opportunity for the young person or the family to improve their living situation or to get a hand up.

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We fear that the changes to the legislation will have significant impact on the families, young people and children we serve. Families who have come into contact with the children's aid societies are dealing with many problems and stresses. The inability to find and secure adequate shelter for the family increases stress on the family and reduces the family's ability to cope and provide a nurturing and safe environment for children. The end result could be the need for temporary or permanent placement of the children.

Without choices and options, families will not be able to improve their housing situation. Pressures will impact on the family's interactions and their coping mechanisms. The family will take longer to become self-sufficient and take full and independent responsibility for their children.

Without choices and options, young people from the child welfare system will not be able to move out to a self-sustaining independent living situation. They will end up returning to a situation dependent on social agencies and social assistance. Youth in care and from care desperately do not want to repeat the cycle of their parents or their family.

I'm going to ask Jessica to make a few comments to explain the difficulties she has encountered under the current situation in finding adequate accommodation for herself.

**Ms Jessica Downton:** Good afternoon. My name is Jessica Downton and I'm a youth who has been living independently for nearly two years. I grew up in a rural community just south of Ottawa, and at the age of 15 I was placed in foster care. After nearly a year of living in foster care, I decided that I had come to a point in my life where it was time for me to go out and start preparing for independent living while I still had support from the CAS.

For three months I searched in the town where I was attending school for an affordable, decent place to live. After a tireless search, I finally found my answer: a room in the basement of a private home. For \$300 a month I had a clean place to live. However, the landlord was reluctant to rent to me. He had a meeting with my social worker, requesting that the rent be paid directly to him by the CAS.

When looking for housing, landlords asked the following questions of me: "How old are you? Do you work? Where do you get your money? Why aren't you living with your parents? Do you have a boyfriend? Do you have references?"

In June, after my 18th birthday, support from the CAS ceased and I was forced to leave the county, my school, my friends, and my social support network, because there are no jobs in Rockland — certainly not a job with enough hours or wages for me to manage to pay for rent, phone, food, clothes, hydro, and still have enough hours in the day to go to school. So at the end of June off I

trooped to Ottawa to find employment and a place to live. Thankfully, as a child I was blessed with courage and was able to advocate for myself in order to obtain a unit in a subsidized building run by the youth services bureau of Ottawa-Carleton.

Keep in mind that prior to the cessation of support from the CAS I had a wonderful social support network, people who were willing to go to bat for me and advocate on my behalf, people who were aware of supports out there: my doctor, two social workers, foster parents, and guidance counsellors.

Unlike many other youth, I was able to get a subsidized unit. If the changes in the legislation go through, I will be more likely to remain in subsidized housing for a longer period of time, thus preventing the opening of subsidized units for other youths who are either living on the streets or in abusive relationships and/or dangerous living conditions. I will not have as much opportunity to move forward, meaning those behind me will have even less opportunity to move forward.

I don't want to see it come to a point where young people will have to make a decision about whether they will stay home where they are being beaten or whether they will tough it out on the streets. The reality is that many will choose the streets, because there's no affordable housing out there and subsidized units will be full of people like me, people who are unable to move forward because of the high cost of housing. Youth in general, but especially youths on social assistance and those in care of the CAS, are considered undesirables in apartment buildings and are therefore faced with a dismal future. It makes me sad to think that some youth are struggling to get enough money to pay for an apartment that is crawling with cockroaches and vermin. It's important for them to have the opportunity to be off the streets, even if it means living in a broken-down apartment building that most people wouldn't even want their dog to live in.

I see it every day: youths who are struggling to make it in this world, where the rules are not written for them, much less in their favour. Some young people cannot afford to eat because their money is going towards rent. I see young people who are trying desperately to get an education, to plan a better future in tough times. I am one of those people. Perhaps the government, as well as landlords, proposing to change the legislation on rent control ought to take a look into the future, because we, as the young people of today, are your future.

**Mr Hardeman:** I do hear that there are many problems that exist in the present system. Obviously, your difficulty in finding and maintaining appropriate accommodations has all happened under the present regime. Recognizing that this is a discussion paper to come up with some answers to the problems that exist today, could you give us some direction as to what you think we should do if what is being proposed in the document is not appropriate?

**Ms Cresswell:** The recommendation I would make, most particularly in terms of the recommendation we've commented on, is that this should not be a two-tiered situation by any means. We feel that rent control should remain as it is. The recommendation that suggests that when a vacancy occurs the rent can be increased will be



absolutely a barrier to many of the families we work with and the children and youth who will be growing up in the care of children's aid societies. We would suggest that the situation should remain as it is.

**Mr Sergio:** Ms Cresswell, Jessica, thank you very much for your presentation. You have mentioned a number of things, but I'm going to be brief because I want to leave time for my colleague to make a comment as well. You mentioned that substandard housing conditions are a major contributor to not only some youth, but also families splitting, and derived from there, a number of major problems. You also say that even today you find it very difficult to keep youngsters and families together. How would the proposed legislation, which I'm sure you're familiar with, improve the situation you're facing now and that a lot of young people are facing now?

**Ms Downton:** I think it's important for there to be caps on the rent, because otherwise it will be impossible for me to get out of the unit I'm in now and other youth will not have a place to go; other youth who are now on the streets won't have a place to go. With caps on rent, it will be possible for me, perhaps in a year or so when I finish high school, to go out and find a better-paying job that will enable me to find an apartment that is not subsidized.

**Mr Marchese:** Thank you both for coming. Earlier today a Mr Burton came, who was a developer and a landlord. He dismissed most of the deputants, and I would think he would dismiss you as well, as not having the expertise to comment on some of these matters. I want to thank you for bringing the expertise that both of you bring, because you are in the field, you know exactly what's happening to people like yourselves.

I had two questions, but I can only ask one. I have observed that the fact that they've cut welfare rates has created rent arrears and has created tenants who can't pay their rent. From the experience you've had, is that true?

**Ms Cresswell:** Certainly that has been reported by our children's aid societies in the field, and in fact those are the families who come forward to the agency to request help at that time. There are very few families that want to come to the agency to ask for assistance because of housing, yet some people are absolutely forced to do that because they cannot keep up with payments of rent and other bills as a result of the reductions in social assistance.

**The Chair:** Thank you very much, ladies. We appreciate your input into our deliberations.

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## LANDLORD'S SELF HELP CENTRE

**The Chair:** Our next group represents the Landlord's Self Help Centre: Mr Fred Campbell, the vice-president, Mr Marvin Gord, a director, and Ms Susan Wankiewicz, the executive director. Welcome to our committee.

**Mr Fred Campbell:** Mr Chairman, members of the committee, fellow presenters and observers, we appear today on behalf of Ontario's only self-help clinic for small landlords. Thank you for the opportunity to present our recommendations and concerns about the tenant protection legislation that's being proposed. We appreciate that you have a very tough job trying to balance all

the issues and the needs of various groups, and we trust that you will take the time to carefully listen — I'm sure you will — and come up with a fair and, hopefully, a balanced piece of legislation.

I'm Fred Campbell. I'm the vice-president of the Landlord's Self Help Centre. I'm one of 12 members, volunteer members, of the board of directors. With me are Marvin Gord, a fellow board member, and our executive director, Susan Wankiewicz; she has been employed with us for a number of years. We have four full-time employees. We're going to make a brief presentation; hopefully, there will be time for questions. We will have, by the end of next week, a document to give to you.

What about the Landlord's Self Help Centre? Perhaps this would help you in terms of our perspective and the perspective we try to bring to this consultation today. We provide advice and consultation to small landlords. By that, I don't mean people who are four feet tall, but people who have only one or two units, not many units, and in many cases they are owner-occupied facilities. The Landlord's Self Help Centre was founded 21 years ago by an elderly couple who lived in downtown Toronto who had some problems with tenants. We're located conveniently downtown on Atlantic Avenue, just down at Dufferin and King. We have four full-time employees and, as I mentioned, 12 board members. Several of our board members are small landlords, and some of us are tenants. I happen to be a tenant, and I also have a few apartments that I rent out. I don't live in the building I have with apartments in it.

In 1995, last year, our organization responded to 20,000 inquiries related to the legislation and its implementation and use. We conducted, through our staff and volunteers, 327 seminars, with attendance of 1,644 persons. We produce self-help kits. We produce lots of brochures like this to try to educate the public and small landlords. We produce a newsletter frequently, and we provide the script for four of the Dial-A-Law messages available through the Law Society of Upper Canada.

Many of the issues that come to us come to us on these themes: information about how to start a rental process at the front end without getting into difficulties and problems, how to do it properly. Perhaps up to 75% of the inquiries and problems that our workers respond to have to do with the termination of a lease for non-payment or for breach of the agreement. We also get a lot of inquiries about access to show the apartment either to rent it again or if the building is for sale and the people want to have access. We also get a lot of inquiries about abandonment of possessions.

Who are our clients? Who are the people we are providing information to? We will provide information over the telephone to anyone who calls. For the most part, these are landlords who are unsophisticated, who don't have a lot of knowledge and only have a small number of units, perhaps one unit in the house in which they live. Typically, these people are renting out apartments in the same building they live in; 29% of these people, our clients who get full service from us, are 65 years of age or older; 59% are 50 years of age or older; 87% of them have an annual income of under \$15,800;



28% of them are unemployed; 38% of them are on pension; and 60% of them have a mother tongue that's other than English. Now, these landlords are indeed unsophisticated and in most cases cannot afford legal advice when they get into difficulties.

What I would like to do is to give you a few of our recommendations that come from this client population — just a few of them — and then the rest will follow in our paper that we will get to you.

On page 5 of the consultation paper, it says that the notice period "works well" — notice to terminate, that is, when there's non-payment or there's a breach of obligation. This hasn't been our experience. We are of the opinion that the overall process of terminating a tenancy agreement should be somewhat streamlined and shortened. Remember that 75% of our work relates to this issue. At the present time, after the form 5 has been issued it can take six to eight weeks before a tenant can be required to leave, and then there is the proposal for 30 additional days if the tenant has left behind their possessions, so a number of weeks, perhaps even up to three months, can pass by while the landlord does not have the opportunity to go ahead and rent the apartment.

Consider the problem particularly for some of these unsophisticated small landlords. Lots of times they don't act immediately; they sort of let things ride. They think the tenant will pay, and they sometimes wait weeks, even wait months. You can say that they shouldn't, but that's reality: Sometimes they do. They end up, in some cases — we can give you examples of people who borrow in order to pay their mortgage. They borrow on their VISA, that sort of thing. That's extreme, admittedly, but it does happen.

We also recommend that the tenant be given seven, not 14, days to pay rent in arrears after the notice has been given, because what happens in practice is that by this time of the month sometimes, in August, say, this month, the notice is given, and it's almost the end of the month before the tenant may then pay. Now you're into September 1 and the rent's not paid, and you go through this process again, sometimes many, many times. We would therefore suggest that you consider the issue of persistent late payment of rent.

When a tenant fails to pay their rent on several occasions, say four in one year, we think that would be reasonable and fair grounds to look at terminating the lease. When you consider that most leases go for one year, sometimes two years, if you have to wait to the end of the lease to terminate these people, we think that's unfair. We suggest that if there are four late payments in one year, a pattern of delinquency has been established and it means the landlord should be able to do something about this.

The whole issue of abandonment of property is outlined in your paper on page 6. We think it would be reasonable, given that the landlord has gone through all the current process, that the time in which the tenant is required to get his or her possessions out or in which the landlord has an opportunity to do something about it should not be 30 days; it should be less, and we suggest that you consider seven days as a reasonable amount. Often the landlord has obtained a writ of possession, the tenant has left, but the belongings are still there. So the

question of removal, disposal or storage is a problem and, in some cases, it's a cost to that tenant. It's a particular hardship if it's a small landlord.

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The other issue you're proposing that we are in favour of is the issue of sublet, or the assignment of a lease. We know that some tenants will sublet without the landlord's permission, and we think that it needs to be made very clear that the tenant who sublets without permission from the landlord should not be allowed to stay if they are not a suitable tenant and the landlord should certainly have a method or mechanism in which that person can be evicted.

The issue of privacy and the issue of a landlord's access to a rented facility — that's at the bottom of page 6 in your consultation paper. We ask that you look at further clarifying the section and that you please be more specific in laying out in the act as to when a landlord can enter, under what circumstances, with what notice, and clearly indicate when a landlord can enter without notice, because that still seems to be confusing to us when we look at it as it's currently being suggested.

We also ask that you consider expanding the right to enter not only to show the apartment to rent, but to show the apartment when the apartment or the building in which the apartment is is for sale. That's at the bottom of page 7. We have situations where a tenant will give notice of termination and then refuse the landlord the opportunity to show the premises. That makes it very difficult. Sometimes 24 hours' notice is given to a tenant saying the landlord wants to show the facility, they arrive with a client, and they are unable to get in. This does not seem fair.

In terms of the sale of the property, we think that this is a fair and viable reason to terminate a lease at the end of the term. Our experience has been that many landlords have assumed that that provision was already in the legislation and they will call up and say, "Give us the form that we need to use in order to give notice of termination because the building has been sold."

We also suggest that in the situation where the landlord is not the owner — that is, let's take a situation where you have a house and you have a tenant with a lease who then sublets part of the rental space to a third party. We think that there should be provision for that party also to be terminated in the case of the sale of the property. It doesn't seem to be there at the present time.

We would also ask that you might consider making a recommendation that the form in respect to notice of termination have in it some indication that the landlord has a right to show the facility while the tenant is still in possession.

I'm getting near the end. Yes, this is the last recommendation that we're going to make here.

The question of exemption for shared facilities: We recommend that this be extended in the act to include people who are subtenants, if you understand what I'm saying here. You're familiar with that piece of legislation, but often you'll have, as in the previous example, a tenant with a lease who has subletted part of the facility and they share the kitchen or they share the bathroom.

Finally — this is a suggestion that is probably outside of the purview of this study but certainly has occurred to



many of us on our board and to our staff — is the issue of the need for increasing the rental stock. The folks from the children's aid who were just before us certainly talked about the need for affordable housing for young people in care etc. We note that that is a need in Toronto particularly and other large cities in the province. We know that new construction is expensive and that in many cases tenants who would like to move into these new facilities can't afford them because the cost of construction means the rent is high and excludes a lot of people.

We know that a lot of apartments, particularly in Metropolitan Toronto, are in poor condition, especially apartments that are in buildings with a small number of units, say less than 10 in a building, and there are thousands of four-unit buildings in Metropolitan Toronto, sometimes called fourplexes or whatever, double duplexes, that are in very poor condition but are quite large, sometimes with apartments 1,200 or 1,400 square feet. We know also that there are lots of older homes in Toronto that could provide additional housing. So we suggest that the provisions that were in Bill 120, in respect to basement apartments, be reconsidered and relooked at as a viable means of increasing affordable apartments, particularly in larger cities.

We also suggest, if you have any purview in this area, that you look at the issue of intensification of, say, buildings like fourplexes, particularly those that are on main arteries that could easily accommodate more units. There are a lot of single people, a lot of couples who in fact could benefit and would take smaller units that are close to the city and rely on public transportation etc.

We wish to thank you. If you have questions, Susan, our expert, will respond to the technical details.

**Mr Curling:** The Chairman is setting me up, and I won't ask a question; I'll just make a comment. Jan Schwartz came in and talked about the small businesses, the mom and pop industry itself. Maybe I could ask a question. Do you feel that the small businesses that provide shelter should be regulated?

**Mr Marvin Gord:** I don't quite understand. What do you mean by "small business," Mr Curling?

**Mr Curling:** Say that you're a small business, a small landlord, and you're considered a small business, not as a big high-rise, and I'm asking if you feel that your industry should be regulated.

**Mr Gord:** Yes, I'd have no quarrel with that. I'd just like to qualify and probably clarify something.

**Mr Curling:** It's just a short time they gave me, that's why I had a short question.

**Mr Gord:** If I might, our landlords are not small business people; they are in many instances more indigent than the tenants to whom they rent. Their incomes are well below \$20,000. They are seniors who have to share their home and the termination process sometimes becomes a very hostile environment to the point where they have to leave their own home because they can't stand it. They're elderly women who have a pension and no other resources.

**Mr Marchese:** Mr Campbell, you seem to me to be quite knowledgeable, actually, in the whole field and we thank you for your submission. You made two interesting suggestions: one, with respect to this government recon-

sidering basement apartments. We felt as a government it was important to do that. People were looking for that and it was a way of providing affordable housing to people. The other one is intensification, a very good suggestion as well.

Your comments around small landlords would have been very useful if that was the only subject of discussion for us to talk about, because I think small landlords have a real problem in this regard. I really believe that that is true. But the guts of this proposal is something different. What this government is trying to solve is the whole problem of landlords not having the incentive to invest in their buildings and builders not building new buildings. That's really the question they're trying to solve. But is getting rid of rent control the answer? That's really the guts of this proposal. Is that, do you think, the answer to their problems?

**Mr Campbell:** I think that some control is necessary and useful, but on the other hand, I think, for example, the case presented by the child welfare people, they're looking at the problem from the point of view of keeping rents low.

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The problem there, if I may suggest, has to do with subsidizing the young person. A young person should be able to rent an apartment in the market so that we shouldn't have to discriminate against them. We shouldn't have to ghettoize people with low income. We should be able to subsidize the individual so they can afford market rent. Don't subsidize the facility, the apartment. Subsidize the person so that they can go out and live like the rest of the world, including child welfare children.

**Mr Wettlaufer:** Mr Campbell, thank you for your presentation. I'm very interested in reducing the adversarial complex that exists between landlord and tenant and I'm not too sure how we go about it. One of the things I've heard an awful lot this week, we all have, is the rights of tenants. I would like to think that landlords have some rights too. The first question is, what rights could you tell us you think they might be?

The second is, there's been a fair amount of criticism about the amount of profits that landlords make and I think sometimes that landlords don't share some of this information with the tenants and I wonder if that would help, if you did share that. The two questions, if you could, please.

**Mr Campbell:** I think that the rights of property owners and landlords should be balanced against the rights of individual tenants. We need a balanced system. I think it's our perspective that the current legislation is biased in favour of the tenant.

I am a tenant myself. I live in a building and I have a couple of small rental units myself. I see it from both perspectives. It needs to be fair and I don't think it's fair the way it is at the present. Some aspects are not fair.

**The Chair:** I'm going to have to cut you off. Sorry there wasn't more time; unfortunately 20 minutes goes by very quickly. Thank you very much for your interest and your input. We appreciate it.

**Mr Campbell:** Thank you very much.



## SCARBOROUGH TENANTS ASSOCIATION

**The Chair:** Our next group is the Scarborough Tenants Association, represented by Dianne Urquhart and Stan Roberts. Welcome.

**Ms Dianne Urquhart:** I will hand out copies of our brief at the end of the day. We assume you'd prefer them stapled, so you'll have to wait.

The Scarborough Tenants Association was formed in 1994 by tenants who were fighting to resolve primarily substantial disrepair in high-rises in Scarborough. We're a coalition of tenants' associations, active tenants and tenant advocates who have tried to address a range of issues. We have always maintained our main focus is disrepair, primarily in the high-rises.

After this week of hearings, I don't think you want to hear detailed analysis of every provision, so we're going to try and give just a summary of the view of our members. Our basic position is that we're very concerned about the changes proposed in the discussion paper and we're adamantly opposed to the general direction it leads.

We feel there's no question it's going to make the situation worse for tenants but also for the economy in general. The proposals are based fundamentally on incorrect assumptions, so we'd like to explore that a little bit. Basically, it's the antithesis of protection. I'm going to turn it over to Stan for a few minutes to give an overview of the sentiment of some of our members.

**Mr Stan Roberts:** I have labelled my part of this presentation "New Directions' or No Direction?" As you all know, housing is an issue of fundamental importance to every society. After all, the well-known saying that "A person's home is his or her castle" still holds true today.

Unfortunately, this concept is forcefully being changed in this province by our ruthless government bureaucrats and their financially powerful developers, working together to maintain their self-serving interest in keeping the rental housing business a profitable venture at any cost.

But who pays this cost? Of course you know, it is the disadvantaged tenants who are powerless and have little or sometimes no choice in deciding on the price of facilities they can afford for decent living accommodation to call their home.

Somehow it seems that tenants are regarded and treated as substandard people and second-class citizens, all because of the bottom line of the landlords' agenda called profit. This concept must change immediately and restore the dignity into the heart and lives to this large sector of our society.

After all, tenants make up over 52% of the residents of this province. Remember, tenants are also consumers. Without them, there would be no landlords. There would be fewer cars sold, department stores and groceries would be literally non-existent, and of course there would be absolutely no need for useless politicians to deliberately betray this large sector of the community with broken promises and new and oppressive legislation like the government's New Directions. This would have been better named No Direction in the Lack of Common Sense Revolution.

It does not take the proverbial rocket scientist or brain surgeon to see the impact on the lives of tenants who are

forced to pay more than the acceptable 30% of their income for accommodation. I ask this committee to wake up and smell the coffee.

With less disposable money after paying the new so-called decontrolled higher rent, the tenant is forced to do without many basic necessities, which of course translates into the loss of jobs, and the deterioration of the economy continues.

It is well known that this government has declared war on the poor of this province. The infamous, "bent-up tuna-cans" minister has been quietly reshuffled into another ministry after his public display of insensitivity to basic human needs in a mean-spirited type of politics. So much for one of the revolutionaries.

It is quite clear that the Minister of Municipal Affairs and Housing, Mr Al Leach, is imbued with the same spirit in his approach to the landlord and tenant issues. I would like to suggest that Mr Leach should resign immediately and a new approach be taken by the government to act honestly and constructively in effecting changes to the six pieces of legislation, especially the Landlord and Tenant Act and the Rent Control Act.

The minister claims the current system does not work and suggests a complete overhaul to fix it. Perhaps Mr Leach would have a complete engine job done on his car, and a complete paint job if he got a flat tire, or redecorate his palatial bathroom because of a leaking faucet, and calls this "looking at the whole picture."

Who will stop a landlord from using this complete overhaul approach to justify unnecessary upgrading at the tenants' expense, resulting in high rents, and justify this action by Mr Leach's proposal that "will give landlords greater incentive to maintain the buildings."

In his remarks to this standing committee on August 19, Mr Leach clearly indicated that this whole issue is orchestrated solely by the landlords' agenda, and I quote: "Unless we fix the system, property owners won't invest in buildings and they won't build new rental units. They mean what they say." I wonder who's in charge.

It's quite clear that Mr Leach intends to appease landlords to have their way in keeping the balance of power over tenants. This is hardly the "exercise of democracy at the grass-roots level" he referred to earlier in his comments.

Mr Chairman and committee members, you have heard the phrase in politics before, "Read my lips." Remember that the next election is not far off; you will rue this day. We tenants also mean what we say. In the meantime we intend to fight for justice.

In this economy of declining incomes and lost jobs, as companies are forced to downsize, tenants are already forced to abandon their homes and seek refuge in overcrowded shelters or with compassionate relatives and friends at great inconvenience and humiliation. Consequently the situation is forcing more people to use food banks and the already overburdened charitable organizations.

This is not a landlord and tenant issue that needs to be fixed by any means. It would be more commonsensical if this government were to focus on the root of the problem: long-term job creation. As you know, it is not the Rent Control Act that has caused the decline in construction of



new rental housing in the past, and the removal of this piece of legislation will not change the situation.

The government's proposal to create a faster and more efficient process to resolve disputes in a less formal system of adjudication, instead of using the courts, is very vague and misleading.

While the wheels of justice turn slowly, the Ontario court is the only forum where tenants can be fairly represented at this time to settle disputes under the Landlord and Tenant Act. I disagree with the proposal to replace this effective piece of legislation with the tenant protection package.

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**Ms Urquhart:** We'd like to take a few moments to raise our main concerns. We'll refer you in our written brief to a few appendices which list in more detail our recommendations around the costs no longer borne and some of the more technical details.

We have two concerns: first, the group of proposals which, taken together, allow landlords to raise rents to whatever supposedly is fair market rent, which eliminates tenants' access to necessary information and encourages harassment of tenants, which will make the situation worse for tenants and for the economy in general.

Increasing the rent when a vacancy is created will not meet the stated goals and will create extreme suffering. Ostensibly this has been brought in to encourage investment in new housing. You've heard this week from many builders and developers that it's not going to do that: It's not enough; it doesn't go far enough. Why proceed with this then? Certainly not in the interests of tenant protection. Where are the studies that have shown that this is in some way going to benefit tenants? There are none because it won't benefit tenants.

The reason to proceed is solely to cater to developers who are not satisfied with a 10% return on investment. That's already higher than most other sectors, certainly than any other rental sectors. What profit margin does the government think is actually reflected in a true market rent: 20%, maybe 30%? There's a Chinese proverb apparently which says, "Beware what you wish for because you may get it." I'm afraid this is the situation we're faced with.

Where are the tenants who supposedly will be able to pay these fair market rents? The government wants controls lifted to these market rents. We already have experience with this in Scarborough. There are hundreds of units and dozens of landlords who rent below market unit rent at this point, legal maximum rent, because they can't rent at the full rent. They've already priced themselves out of their market.

Market rent is tied to people's income, not to the profit margin that landlords decide they want. You can't get blood out of stone. Even if these proposals push us to a serious housing crisis where there's a serious shortage of affordable housing, the most desperate persons cannot pay more money than they have. That's a situation we already have in Scarborough.

Maybe we're proposing to extract more out of tenants at the so-called high end of market rent. There is a certain cap on that too. Tenants, by and large, will not pay more for rent on an ongoing basis than they would

have to pay for a mortgage, and we're already reaching that point now: a two-bedroom going at \$1,000, \$1,100. You're looking at the same carrying costs as a mortgage, so those tenants too will move on.

The outrage is that the package, taken together, gives landlords a manifesto on how to evict tenants in order to gamble that they'll be able to extract more money.

Many of our members have lived in their apartments for five, 10, 20, even 30 years. I'm not sure where they're supposed to go. We already have heard from developers that they're not going to be building more units based on this, so I guess we just dump them out on the street like so much garbage. All right, maybe we accept that this is what we're going to do, but I suggest there's no one else who can move into those units. If you look at Scarborough and other municipalities around the periphery — Etobicoke — you already have experience of that.

Harassment will increase dramatically. It's already happening as the economy has worsened; it's going to happen more. I'm sorry, but it's an insult to tell tenants that they will be protected by this anti-harassment unit, because it won't happen. It hasn't happened under the enforcement unit we have now and it cannot happen with this new anti-harassment unit. Even if it did, even if we had prosecutions and fines and so on, what consolation is that to a tenant who has been evicted, to a family that's put out? It's very nice that their landlord gets fined even the maximum \$1,000, but where does that put them? It puts them nowhere. It doesn't address what the problem is, which is that people need to be allowed to stay in their homes.

The rent registry has to stay. It's the only means tenants have to know what services they're supposed to be getting.

The abolition of the Rental Housing Protection Act is a tremendous loss and will only exacerbate things. It's quite a mind warp to understand how this could be included in something called tenant protection. Obviously there's the intention to provide freedom to investors to dispose of their property as they wish.

Again we have experience of that in Scarborough. What happens when you push the maximum legal rent up beyond what the market will bear? Presumably you convert to condos. What happened in Scarborough? We have a glut in the condo market. They can't get the prices they wanted, they can't bear the cost, so what did they do? They went whining to the government to get rent supplements to rent the condo units. You've had deputations from some landlords who are accepting rent supplements on condo units for tenants. That was a bailout of the condo sector, and there's nothing in the economy to change that process.

Obviously this is going to be a loss of residential housing. It's not going to be an increase or protection or anything else.

To move on to the second issue of maintenance, any tenant protection package has to address disrepair in the rental stock as it exists. In Scarborough we have roughly 650 high-rises. That's over 100,000 families in those units. By and large, they're 25 to 30 years old because of the history of development there and many of them are in



massive disrepair. That's been acknowledged by the city. The major structural and mechanical systems are breaking down. We're talking about capital repairs on these buildings that are running into the tens of thousands, to millions of dollars in other cases.

We applaud increasing maximum fines in recognition of the seriousness of property standards infractions. However, unfortunately we feel it's a hollow victory. Municipalities do not have the resources to use that and in some cases — Scarborough — they don't have the political will to use that. To quote our director of property standards: "At the end of the day, if all I'm getting is a fine, especially if it's against the individuals and not the corporations," it doesn't mean very much. "The question you're asking is what can be done to actually get the repairs physically done. At the end of the day there is no court order that forces them to do it."

What's needed is an integrated approach. The threat or deterrent of a prosecution or fine is one element, and that's fine; the resources to the municipalities to enforce that are needed.

We held a public inquiry into disrepair in October 1994 and set forward a series of 13 recommendations which would provide an integrated approach. I'm going to list those out for you at the end.

There has to be an automatic mechanism for tying rent levels to repair levels, where the rent money that is withdrawn or held in abeyance then goes directly to repairs. Obviously the rent freeze we have now is the most logical. It's the only thing we have that ties rent directly to maintenance, and it has to stay. It has made a difference in Scarborough. It would have made more of a difference if the city had enforced its standards, but the government's proposal to do away with the automatic rent freeze will be a serious blow to the possibility of getting actual work done.

This idea of allowing greater increases for capital work is a bit of a problem. There's nothing in the package that ensures in any way that this money is going to go to capital work. That's the whole problem we've had for the past 20 years. There have been millions of dollars paid by tenants for capital work, even in the 2% increase per year in the automatic guideline, and where did it go? In some cases it went into the buildings. In Scarborough in a lot of cases it certainly did not. Who are these people who didn't reinvest it? Who are these people who went off with it? Where is that money?

What is different here? "Let's give them 4%, let's give them 6%," but what requires that it still goes back into the buildings? Nothing. Again it's just more money out of tenants' pockets with no provision that it will go back in.

One way to do that is with a capital reserve fund. We won't go into it in detail, but the 2% capital cost would be an obvious source of funding. Another useful source would be the revenue from these fines, so rather than those fines going into the provincial coffers to reduce the deficit, they could actually go back and be used for repairs. That would be a useful use of those fine moneys when they are levied.

We also recommend that municipalities be permitted to recoup as municipal taxes the moneys they spend on

necessary remedial work, legal costs and so on. This is mentioned in the proposal, but it's not clear to me from reading it whether that's in fact there or whether it's just a comment that it would be a fine idea.

In summary, we have participation from roughly 200 buildings in Scarborough. We've only been around for a year and a bit. We're growing regularly. That's fairly substantial participation. We have here 500 letters from individual tenants which generally support our proposals, so we have the details here.

I'll just list the specific details or the specific recommendations that we have to ensure the preservation of the existing stock which would represent an integrated package:

Ensure that the automatic guideline which is allocated for capital work is being used on capital work.

Change the Rent Control Act so that there's a mechanism for decreasing rent when a rent freeze is put on if the work continues not to be done at incremental stages over time.

Amend the Planning Act to provide that officers and directors of corporations can be held personally liable.

Increase fines for convictions, which you've done.

Educate justices of the peace on the seriousness of this and give them the authority to order the work done, which is missing in this legislation.

As I said, amend the Planning Act so that the municipality can recoup its cost.

Put substantial resources into the enforcement branch of the Ministry of Housing, maybe equal to the fraud squad for welfare or other of the kind of scrutinizing bureaucracies we put in place.

Change the Rent Control Act so that a landlord must provide certification that there are no violations of minimum building and safety standards in order to collect the automatic guideline increase. Since this would require greater resources from the municipalities for inspection, give more money to them to enforce their standards. Thank you.

**The Chair:** Thank you very much for your input. We appreciate your taking the time to come and share your ideas with us.

1400

#### CITY OF YORK COMMUNITY AND AGENCY SOCIAL PLANNING COUNCIL

**The Chair:** Our next presenter is from the City of York Community and Agency Social Planning Council: Dan Goldberg, who's a tenant; Wendy Gage, Horizons for Youth; and Thelma Bradley, the co-chair of the board. I obviously named off one too many names. Welcome to our committee. We appreciate your being here. The floor is yours.

**Ms Wendy Gage:** At this point it doesn't seem that Thelma has been able to attend today, so I'm going to speak on behalf of Thelma. My name is Wendy Gage and I work for Horizons for Youth, which is a shelter for youth in the city of York. But I'm here representing Y-CASP, which is the City of York Community and Agency Social Planning Council. Y-CASP is a non-profit, charitable organization that brings together residents and service providers in the city of York to identify and



respond to human service issues which impact on the lives of residents in our community.

The city of York in particular is a high-need, under-serviced municipality in Metropolitan Toronto. We have about 140,000 residents and we are a low-income community with many new immigrants. Over half our households are tenants versus homeowners. We'd like to share with you today some information about our community and some of the concerns we already have from tenants in the city of York about the proposed changes in rent control legislation.

Y-CASP conducted a demographic profile of the city of York and there are some key points that are relevant to this proposed change in rent controls. The city of York has the lowest average household income in Metro Toronto. In 1991, the average incomes were \$45,083 for the city of York as compared to \$54,601 for Metro Toronto and \$52,225 for Ontario. We also have a higher rate of unemployment in the city of York, 11%, compared to 10% for Metro Toronto and 8% for Ontario.

Our families comprise of a lot of single-parent families: 17.5% for the city of York, compared to 16.3% for Metro Toronto and 13% for all of Ontario. Of the single families, those headed by a female parent are 85.2% in the city of York, compared to 84.8% in Metro Toronto and 83% in Ontario. We also have a higher rate of seniors in the city of York over the age of 65: 13.7% in the city of York, compared to 12.8% in Metro Toronto. So as you can see, we've got, as I said before, quite a low-income community. We've also got a community filled with single parents and unemployed people.

In terms of housing, there are 56,130 occupied private dwellings in the city of York, and the number of rental units is 30,260. The percentage of tenants in the city of York is 53.9%. A lot of people in the city of York rent.

There's a higher average ratio of rental versus ownership dwellings in the city of York compared to Metro Toronto. In terms of affordable housing, which is defined as housing costs that don't exceed 30% of gross annual income, 35% of York's tenants are already spending more than 30% of their household income on rent.

In terms of vacancy rate in 1995, ours is 1% in the city of York compared to 0.8% in Metro Toronto, which is slightly higher. But it's expected that's going to drop in 1997.

One of the activities that Y-CASP participated in was on June 25, the same day that the government released its discussion paper on the tenant protection legislation. We had a rally with over 200 people, and some of the comments we heard that day really revealed the anxieties that people in the city of York are feeling about these changes. I want to take this opportunity to share with you some of the things they said.

One tenant said: "People are upset about this decision. In my opinion, rent is already too high, no matter how much landlords charge."

Another said: "It's terrible that landlords will be able to increase rents for vacant units at their own discretion. Landlords are going to pocket the money and not do repairs."

A senior said: "Speaking on behalf of seniors in rental buildings, we have fixed incomes and must pay rent, buy

food, pay for our cars, gas, oil and repairs. How can a senior, receiving low income, afford this? How will they live? And they can be evicted at any time."

Another individual said: "The present government doesn't understand this education. They're closing an anthill and opening a volcano. What do people have to rely on except welfare if they're evicted? The little people are being hurt by education, health care, cuts to welfare," and this, actually.

Another said: "If you're not making \$40,000 a year, you won't be able to live. I fear evictions for forming tenants' associations."

Another said: "The proposal represents no rent control for tenants. It'll make tenants prisoners of their own apartments." Having sat on the committee that organized this rally, that was a common concern, that people were going to become prisoners of their own homes, that they won't be able to leave.

A representative from the children's aid society pointed out that these changes will hurt kids. It represents discrimination against income. At the children's aid society 18% of their admissions are due to housing, and these proposed changes will only make the situation worse.

Another tenant said: "I'm not confident that calling my MPP will have an effect. I feel that seniors will not be listened to unless we have a lot of money."

Another said: "I doubt that Mike Harris will consider affordable rents an issue. I have a big fear that we will never be able to move."

The mayor of the city of York pointed out: "In the city of York, we already have a high proportion of slum landlords" — crack houses and prostitution happening. "These places have very poor security for tenants. What will happen with maintenance and security when this law passes? Harris said he wouldn't touch rent controls."

Finally, someone said: "I see my rent going up and it's already \$722 for a one-bedroom apartment. There must be some control here. Landlords are rich already."

As you can see, a lot of people in the city of York are very concerned about these proposed changes. I myself have serious concerns about the passing of this proposal, as I believe it represents further discrimination against marginalized people in this province: the poor, seniors, single parents and people who cannot afford homes.

As I said before, I work for Horizons for Youth, which is a shelter for homeless youth in the city of York. Many of the youth at our shelter are under the age of 18, so they can't even vote and they don't have a part of this process. I'm trying to give them a voice here. Many of our kids rent and most of them exist on social assistance. They exist on social assistance because they've been kicked out of their homes, because they've got abusive families, because they've had an immigration sponsor who refuses to sponsor them any more. So they have to live on social assistance. A lot of them are on social assistance to get themselves through school.

My experience with these youth is that they're already discriminated against by landlords. They don't have a lot of money to spend on rent — \$325 is not a lot of allowance for rent — and they're often refused affordable options because landlords perceive them as being too young to be responsible.



Another thing that I observed from working with these kids is that they face evictions at a much higher rate than adults do. What I see is, a lot of these are illegal evictions. Landlords kick them out and they don't know the legal process. They don't know what they can do and they don't know how to fight against it.

Most importantly, these kids move a lot. We can't expect a 16- or 17-year-old to have the same social skills and the same abilities to stay in a place. We take that for granted. These kids move a lot. If they're going to be moving a lot, they're going to face changes in rent every time they move into a vacant unit. This is my big concern. In the last six months at Horizons for Youth we've had our beds filled to capacity and we've even provided emergency mattresses on the conference room floor for homeless youth, making our occupancy rate 102%. We're full to overflowing, and the situation is similar in other shelters in the city.

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The only thing I can see with these rent changes is more kids are going to get evicted, more kids are going to have a hard time finding affordable housing and we're going to see more youth on the street. That means more youth involved in street crime, such as prostitution, and more youth living in squats, which we've already seen is a problem.

I'd like to just pass over to Dan Goldberg, who's a city of York resident.

**Mr Dan Goldberg:** I'm a senior citizen and I've lived at 145 Marlee Avenue for the past 23 years. This is one of the buildings involved in the infamous Cadillac flip of 1982. I see nothing in the proposed legislation to protect tenants from this happening again. As a senior and a veteran of the Second World War, I think I speak for other tenants, veterans and their widows living on fixed incomes. With the abandonment of social housing policies, with no rent control protection, are we being sacrificed by this government for a promise they have made to landlords?

The building I live in was bought in 1986 from the bankruptcy trustee, and even with rent controls which have been in place, my rent has more than doubled, from \$425 to \$884, so I do not think landlords have suffered. I recommend that the present tenant and landlord act remain as it is.

As you can see, the people of the city of York are very concerned about how this proposal will affect them. The demographics of the city of York show we would be seriously affected by the erosion of tenant protection. We have a high proportion of renters, and this bill will really hurt our community. I would also look to add that while these changes are aimed at encouraging new development by landlords, British Columbia has already tried this approach, with no success. Why are you trying a model that has already proven to be ineffective in other jurisdictions?

The recommendations of the board of directors of the City of York Community and Agency Social Planning Council are:

That the Ministry of Municipal Affairs and Housing strike from any proposed tenant legislation any provision that would include rent decontrol of vacant units.

That the Ministry of Municipal Affairs and Housing strike from any proposed tenant legislation the abolition of the Rental Housing Protection Act, which preserves the existing stock of rental housing.

That the current provisions regarding the rights of tenants in care homes be retained, as the difficulties addressed by the changes proposed in the discussion paper can all be dealt with under the current legislation.

That the government reconsider its position on public sector involvement in the provision of affordable rental housing and hence resume its support for non-profit and co-op housing.

Thank you for listening to our concerns and recommendations. We look forward to positive results from these hearings.

**The Chair:** We have a short time for questions. Mr Marchese, you have two minutes.

**Mr Marchese:** If I can, two quick questions. Thank you for your submission. I support your recommendations wholeheartedly.

There's one comment that Mike Harris has made, and indeed the entire government, and that is: "Landlords have no incentive to invest in their buildings. Builders are not building new buildings." Do you think that by decontrolling, by increasing tenants' rents, that somehow landlords will build?

**Ms Gage:** As Dan said, we've already seen this model tried in British Columbia unsuccessfully. What's going to be different here that it's going to work?

**Mr Goldberg:** I'm a retired electrician and I was in the construction business for 45 years. I have a lot of friends who are developers, contractors, whatever. Not one of them would consider building rental units at this point in time, no matter what happens. It just isn't there; they just won't build.

**Mr Marchese:** Another quick question: The government's welfare cuts, in my view, have been worse for landlords. How is that? Two ways: they've created the rent arrears by the cuts they've made to welfare recipients, and they've created tenants who can't pay their rent because they've lost a great deal of income. Is that your experience in the work that you have done with young people?

**Ms Gage:** With the young people, no. The tendency is for them to end up in some housing with absent landlords, for landlords to legally evict them for things like — I'm trying to think of some — it's usually around they don't like the kids, the kids are too young, they've had a party, that kind of thing. So the kids come home, they've got a lock on their door that the landlord has put there and their stuff is on the front lawn or they never get it back.

**Mr Maves:** Thank you very much for your presentation. Just quickly, we've been through this a lot in this province: in 1975, then they had changes in 1977 and hearings in 1981 and hearings in 1985-86, hearings in 1991 and I think in 1993 there were more changes, and now we're at it again. Ever since we've put in a system of rent control, we've never gotten it right.

Mr Goldberg hit the nail on the head. One of the problems we're facing is this lack of supply. You said builders won't build right now, no matter what. You know developers and they won't build.



I was looking through some notes that were made the last time we had hearings, in 1981. A University of Toronto economist concluded that rent review in Ontario contributed substantially to the reduction in new rental housing starts, and by keeping rents low increased demand for rental housing, and thereby contributed to the rental housing shortage. We're trying to strike a balance here. We're trying to find the right balance, as governments have been trying to find it for a heck of a long time.

In your discussions with your developer friends, why do they say they won't build?

**Mr Goldberg:** They'd sooner build condominiums.

**Mr Maves:** Why do they say they'll build condominiums instead of rentals?

**Mr Goldberg:** It's easier for them to deal in condominiums than rental units. It's not because of rent control. Rent control has nothing to do with it. The investment for them is better — it's their investment. They'd sooner invest their money in condominiums than rental housing, no matter what. Even if you take rent controls off completely, they won't build any rental units.

**Mr Sergio:** Ms Gage, did you say that you have 140,000 tenants in York, or did I misunderstand you?

**Ms Gage:** No, 30,260.

**Mr Sergio:** From the last comment by my colleague on the other side that you, Mr Goldberg, hit the nail on the head that it's a lack of affordable housing, I hope he concurs that rent control is not the problem, it is the lack of affordable housing. With your presentation, you have really crystallized the situation as to why we need rent control and perhaps to even improve upon it, because you have people with the lowest income, you have the high unemployment, you have a high number of senior people and you have a high percentage of single parents. Therefore, as a community, you have all the necessary ingredients as to why the government should continue protection and should give affordable accommodation.

One of the changes that the proposed legislation intends to do — and we call it by so many names now, it's either a draft, it's a working paper, it's a reform of tenant protection and by some other names we call it a tenant protection package — that's from the minister himself. One of these changes says subletting — this has to do with subletting — and assignment procedure to allow the landlord to set the new rent at the end of the lease for a new tenant and allow landlords greater control on who occupies the unit.

If this were to be law tomorrow and you were a tenant and you were to leave that unit and you were a tenant looking for a new unit, wouldn't you be scared? Do you remember the presentation by the young person from the children's aid society? Wouldn't that be just chaotic, to be confronted to go and look for an apartment, if you are a young one, or perhaps one in a low-income situation or from a minority group, to have something like this in the legislation?

**The Chair:** Mr Sergio, that was an interesting question. Unfortunately, we don't have any time to have it answered.

Thank you very much for your presentation this afternoon. We do appreciate your input.

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NICHOLAS BUGIEL

**The Chair:** Nicholas and Olga Bugiel.

**Mr Nicholas Bugiel:** My sister couldn't make it today. She had an operation on her leg.

**The Chair:** Welcome to our committee, sir. You have 20 minutes to use however you see fit. Questions, should you allow time for them, would begin with the Liberals.

**Mr Bugiel:** Thank you very much for your time. I'm going to concentrate on issues and points that may not have been emphasized as much by other speakers and people presenting here.

The first point I would like to make is that landlords are real people. We're just like you. I'm going to share a little bit of my family's background with you. Our family are second-generation landlords. My father bought our building in 1968, totally on his own and as the result of a lifetime of very hard work, and I'm very proud of him for that. He had no help from anyone and certainly did not have any handouts or grants from governments.

My dad immigrated to Canada in 1929 and was homeless during many of the Depression years. So he faced adversity and we knew about adversity in our family as well. He had no welfare, OHIP and couldn't speak English when he arrived. He literally worked day and night so that he could buy some real estate that was to be my parents' retirement security. My mother is now 72 years old and in failing health and for all intents and purposes the rental property represents a large portion of a retirement security fund.

As small landlords, we're typical of the 75% or so of the landlords that make up the vast majority of rental units in this province, and a great number of the small businesses in Ontario as well. We earn a living this way and we're proud of the fact that we provide a service to others. So please, when you talk about landlords, stop thinking and visualizing large corporate landlords that you can cast heaps of scorn on as well as accuse and convict in the media. We're people just like you, with the same wants, needs, dreams and concerns about life. We have spouses and children that we need to provide for, just like you do, and we make a valuable contribution to the Ontario economy year after year after year. We're really no different from anyone else, yet you have chosen to continue to discriminate against me, my family and all of the other small landlords in Ontario by your laws that in effect hold landlords personally responsible for our tenants' level of financial strength and independence.

The second main point is, it is society's duty as a whole to assist those who need assistance, not just the landlords. Let's get an important concept out of the way so there can be no misunderstanding. There will always be some people who will truly need financial assistance to enjoy at least the minimum standard of living, whatever your governments decide that standard of living may be. Those people who truly need assistance should receive it. I have no quarrel with that, so I'd like to get that point right out of the way.

However, like all other social assistance programs, the responsibility to provide for the less fortunate in Ontario is society's duty, government's duty, your duty at large



and so should be financed by everyone in Ontario, not just by landlords. It is completely discriminatory and unfair that my family and I should be forced to directly subsidize people where it is actually your duty to provide assistance to people in need. And to rub salt into the wound, we are forced to provide direct subsidy to a lot of people who should not, with any conscience whatsoever, receive any assistance of any kind.

This is the clearest example of trying to buy votes and increase political fortunes by abusing and discriminating against myself, my family and thousands of people like us. It's too bad this sort of thing wasn't outlawed along with paying someone just before they went into the voting booth.

We really know who the needy are, and with a system of transferable shelter allowances in place, they will not suffer and the argument that the needy will suffer, which a lot of people here have been using, will evaporate. We will do the right thing — help those who need it and create a system that encourages job creation and the construction of rental housing.

Another issue I'd like to bring up is, why is rental housing so different, why is it a sacred cow? Because it really shouldn't be. Where else do you force an entire segment of society spanning thousands of businesses to discount their products or services just because it benefits some portion of the electorate, a great number of which should not be subsidized at all? The fact is that you don't. People need food more than shelter, yet you don't force the food industry to provide discounts to a certain segment, whether they be renters, politicians, students, those earning less than \$20,000, or any group that you might choose.

Face it. Rental revenue expropriation — you call it rent control — as it now stands, is not about helping those in need, so please don't allow yourselves to be fooled that it is. Many of those who truly need assistance do not get enough, while many people in Ontario are unnecessarily subsidized, and we've heard story after story after story about how people in need are not getting assistance, all at the expense of those people truly in need.

A lot of people have quoted the vacancy rate. In your own papers I believe you bring up some interesting information about the vacancy rate, so let's take a look at that argument that you can't lift rent controls because of the supposed low vacancy rate. Now, this vacancy rate, I believe, and a lot of other people do as well, is a misleading sham. It's totally unrealistic. It only takes into account buildings with six or more units, yet about 75% of the rental stock in Ontario isn't included. There are many more vacant rental units, including vacant condominiums. So if you're citing that statistic as a reason for the continuation of rent controls, it's definitely misleading.

Let's take a look at the new political reality of rental housing. I believe the old paradigm is dead. The message of the last election was loud and clear — Ontarians are sick and tired of the old ways that didn't work and you were elected to make the necessary major structural changes to all the areas that needed work, including rental housing. Ontarians know that while these changes won't be easy and pleasant, they are necessary if our

province is to grow rather than decay. And that's really what your government was elected to do. In almost all other areas the government has displayed the necessary vision, courage and tenacity to undertake major steps towards correcting policies and structures that were ineffective, expensive, unaffordable, and perhaps most importantly, unsustainable — areas like education, welfare, health and government-subsidized housing, to name a few.

Yet when it comes to rental housing, you've misread the new political reality. You've caved in to the doom-day hysteria put forth by tenant advocacy groups and by the city of Toronto's \$1.25-million propaganda campaign to save rent control as if it were the panacea for all of our problems. In short, the government blinked and it did so much too early.

All is not lost. Let's take a look at the reality of the situation. You've just been given a golden second shot at correcting the structure. What was the outcome of the obscene \$1.25 million spent by the city of Toronto campaign that culminated in a rally at the beginning of the week? Only about 300 people of a potential of several hundred thousand tenants — actually there's about 1.9 million renters in the greater Toronto area — showed up, according to the *Toronto Star*, as noted in Tuesday's paper. The city even paid for buses to take people to the rally from all the wards. That works out to about \$4,167 spent for each attendee. The more than \$1.25 million could have been used in social programs to help those who really need it rather than buy political advertising at my and every other taxpayer's expense.

The most important thing is that the incredibly poor attendance at that rally sent a message to you that was loud and clear. Saving rent controls isn't a big issue of concern to the vast majority of tenants. We're talking 300 and perhaps the 200 in the city of York out of 1.9 million. If tenants really thought that what the politicians who support rent controls were saying was true, then they would have been out in force in the tens if not the hundreds of thousands. If this is going to be one of the major things that's going to impact their lives tremendously, you think they can't find an hour, an hour and a half to come down to Queen's Park, bused in for free? I don't think so.

What about the self-proclaimed tenant advocacy groups? The fact is that without continued government handouts, they would have been forced to close their doors, and some already have. If they cannot continue to operate with a potential 3.3 million members in this province, then calling themselves representatives of the tenants is a farce and a sham. They have no grass-roots support and in reality would not be a political threat to any party.

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If you have any doubts about the possible fallout of correcting the rental housing situation, again you've been given a golden opportunity to proceed as you knew you originally intended to and make meaningful change to the structure of the system as we now know it.

Let's take a look at part two of the new political reality of rental housing: jobs, jobs, jobs, and jobs create growth for the province and also win elections. What I



find hard to believe is that none of the political parties have caught on to the opportunity here that has continually proved to win elections: job creation.

Everyone has said that the current system and the new proposals will not provide the incentive for new construction and will not create jobs, yet repairing the current rental stock will create an incredible number of jobs in Ontario and help bring prosperity back to the province. At least \$10 billion is required at this point. This is 12 times or more the amount that would be created by building the Sheppard subway line and certainly would be more useful than a tunnel without tracks. Moreover, the jobs would be spread out among many tradespeople and casual workers who are currently suffering from the lack of work. This point, more than anything else, means certain re-election for a party that recognizes and capitalizes on this opportunity.

You mentioned vacancy decontrol. If you choose to decontrol units when tenants move out, rent on the units should be permanently decontrolled, not just until other tenants move in. This is one mechanism to phase out rent controls and avoid what you fear to be a chaotic situation.

Tenant compensation is another thing brought out in the discussion paper. I feel that's nothing more than theft and blackmail in reality. The concept of paying off tenants whose buildings are converted amounts to nothing more than theft and blackmail.

To see how absurd this is, could you imagine if this were extended to other segments of society? Say someone closed or converted a store or gas station that you've been shopping at for years, or perhaps had taken a product off the shelf that you've grown accustomed to buying — say a Loblaws or Shell station for illustration. Using the above concept, I should be able to demand money from Loblaws or Shell just because they closed or converted that store.

This is absolutely absurd and demonstrates once again how landlords are systematically discriminated against in Ontario. The things you're doing to landlords you wouldn't even consider doing to most other segments of society. The reality is that we're an easy mark. We just can't pick up and move our buildings like people can pick up and move their businesses and stores.

Harassment provisions should go both ways. I find it offensive that your proposed harassment provisions are aimed mainly at landlords. We've all heard horror stories over the years when a tenant harasses a landlord, most often in a small building setting like a duplex or a triplex, or someone has rented out a basement apartment. If you're going to implement fines and other provisions, they should go both ways to keep this from happening.

Government bodies have in the past created a fiasco in the processing of prior rent control applications. Why do we have a backlog? It shouldn't be there. How will a new body be any different and be fair to both landlords and tenants? I can't see how, under these proposals, they will be.

You have an incredible opportunity at this point in the province's history. Your opportunity is visionary leadership and commonsense solutions. You can choose to be visionary leaders and implement commonsense solutions that will solve the severe shortcomings of the present

system, or you can continue to be bullied by those tenant advocates who have no real support and demonstrate the same level of thinking that hasn't worked and has created the problems we have now.

Using the common sense that people want in their elected officials, there is only one real choice if you are to be statesmen or stateswomen rather than politicians: Ultimately scrap rent controls in the Rental Housing Protection Act and replace them with shelter allowances for those who need them.

**Mr Maves:** Several people have said on this issue that we should have decontrol completely and have shelter subsidy allowances. If we had a system of decontrol and there's a person on a shelter subsidy allowance who is living in a building with decontrol, a landlord could conceivably take the rent from \$900 to \$1,300, because he can do that, and the person living in that building wouldn't care because he'd be covered by the shelter subsidy allowance. Any thought to how that kind of thing could —

**Mr Bugiel:** There are a number of ways this has to be implemented. It really has to be implemented as an integrated solution. You might combine decontrol in a phase-out mechanism so this won't hit the street all at once. I think that would avoid a lot of potential chaos. Shelter allowances could be based on average rental, or they have to be based on a reasonable amount, and that concept is found throughout the tax system and every other system.

I really don't believe that landlords are totally stupid when it comes to this. You've heard lots of stories about people who can't even get their maximum rents now. If you're going to move from \$900 to \$1,300 and somebody is going to move out, and let's say that apartment stays vacant for two months, even at the old rent you've just lost \$1,800.

**Mr Maves:** On the idea of maximum rents, you're right; there's evidence every day that about 40% or 50% of units right now are being rented out at less than the allowable levels. You've put forward an interesting concept, that the vacancy rate is a lot higher than 0.8% because of these other units. Do you know other landlords with the smaller number of units in them who have a great number of vacancies?

**Mr Bugiel:** You can take a look at the single units, probably condominiums. You just have to take a look through the papers. Probably some of the best people to comment on that would be the landlords' organization. I don't have a landlords' organization. Multiple Dwelling Standards Association represents a lot of small landlords in the province. The Fair Rental Policy Organization represents both large and small landlords. They would be better qualified to give you the statistical background.

**Mr Sergio:** A good presentation; thank you very much. I would concur with the final word in your presentation that we need shelter allowance of some type. To bring you to the second part of your presentation, would you say that politicians get elected on promises of especially jobs, jobs, jobs and why they hadn't caught on and stuff like that?

**Mr Bugiel:** Creation of them. Yes.

**Mr Sergio:** We have a government that championed the cause of creating jobs during the last election. They



won an election on some of their major promises, including that, and we are not even near getting those jobs. We are seeing now especially poor people, especially young people, without jobs. There are no jobs. We're seeing downsized companies, throwing people on to welfare, and then we are saying to the government, "Don't give them anything"?

**Mr Bugiel:** No. We're saying, "Use this as a spearhead for creating all those jobs" because of all those reasons you've just mentioned.

**Mr Sergio:** That's wonderful, but I'm sure you've been following the situation, and we have developers and builders saying: "This is not enough. Why do we need GST? Eliminate provincial taxes. Eliminate realty taxes." What else do they want? Your father did it without any assistance, didn't he?

**Mr Maves:** That's bureaucracy.

**Mr Sergio:** Hold it a second. This brings another question.

**Mr Bugiel:** I'll be happy to talk about that.

**Mr Sergio:** If we eliminate the GST and the provincial taxes and this and that, and we're already seeing cuts to hospitals, schools and education, where is the government going to get the money to compensate for that?

**Mr Bugiel:** First of all, I believe that the creation of jobs will create a lot of spinoff benefits and trickle-downs through society. The people who are now currently unemployed and receiving social assistance will start paying taxes.

**Mr Marchese:** Monsieur Bugiel, you're probably not aware that we're spending \$2.3 billion in shelter allowance at the moment. You asked a question: "At least \$10 billion is required at this point," for capital repairs.

**Mr Bugiel:** That is a common figure that's banded about.

**Mr Marchese:** Yes, I understand. "This is 12 times or more the amount that would be created by building the Sheppard subway line," and so on. You want to get people to do repairs and get people working. Who should pay for that?

**Mr Bugiel:** Initially — the landlords should pay for that; I'm not going to say that. However, this is not one of those black and white issues. Again, what you need is an integrated approach and solution.

**Mr Marchese:** I understand. It's just the way you wrote it. You said that \$10 billion needs to be spent on capital repairs, and I was wondering who — should the government be spending that \$10 billion?

**Mr Bugiel:** That's an interesting question you bring up. That's one you might want to give further suggestion to. Again, I'm not an expert in that area. Maybe you could hire some economists to look at the trickle-down effects of that.

**The Chair:** Thank you, sir. We appreciate your attendance here this afternoon and your input into our process.

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#### RENTAL HOUSING SUPPLY ALLIANCE

**The Chair:** Our next presenters are the Rental Housing Supply Alliance, David Freedman and Richard Lyall.

Good afternoon, gentlemen. Welcome to our committee. The floor is yours.

**Mr David Freedman:** Thank you. I hope I can speak with the same enthusiasm as that last gentleman. My name is David Freedman. I am the president of Goldlist Development Corp, a company involved in all aspects of residential development, construction, ownership and property management.

I sit as a director on a number of industry organizations directly concerned with housing development in Ontario. With me is Richard Lyall. He is the general manager of the Metropolitan Toronto Apartment Builders Association.

The Rental Housing Supply Alliance was formed in 1995 to address the issue of how to overcome barriers to private rental housing development in Ontario. The alliance includes the Metropolitan Toronto Apartment Builders Association, the Urban Development Institute, the Ontario Home Builders' Association and the Fair Rental Policy Organization. They represent in excess of 1,000 landlords and in excess of 5,000 contractors.

The alliance was formed in response to an initiative by the provincial government to examine changes needed to resurrect the rental housing industry in the private sector. The industry has been conditioned over time by government to ignore that segment of the industry.

Among other things, one of the major barriers is the horrendous rental regulatory system. For those who understand investment behaviour — decision-making, that is — the system makes long-term risk analysis impossible. Investment in apartment projects as a rule requires long-term commitments, as is evident in the government's \$1-billion-plus annual commitment to non-profit housing operations.

All housing forecasts pointed to the greater Toronto area plunging into a long-term housing shortage. It was obvious that decisive action to stimulate private sector investment was needed in the Toronto area particularly. It was apparent that no one had been calculating the cumulative effect of years of government intervention which progressively increased building costs through taxation, development charges, school levies, unnecessary building code changes and regulatory red tape, resulting in delays in approvals.

There are many opposed to changes. They are convinced that in Ontario, unlike other industrial regions, the private rental building industry cannot work. They are right, but for the wrong reasons. The industry cannot work because it has been buried by governments. Having destroyed the industry, they then embarked on investing enormous amounts of taxpayers' money in social housing, including what was called market rents, which often unnecessarily competed with existing rental housing.

While we believe social housing can play a role in housing supply relating to special needs, the publicly financed non-profit housing programs categorically failed to fix the supply problem. Waiting lists continue to grow and costs continue to escalate.

The mayor of the city of Toronto stated earlier this week that with a vacancy rate of 0.5% Toronto is facing a housing crisis. We agree. The situation is made worse by the fact that buildings are deteriorating and becoming



overcrowded. The mayor also stated, "The development industry has told this government that the decontrol of rents in and of itself is not enough to begin to build rental units." We agree. She then went on to state, "Of course, the greatest method of creating new rental housing units would be for the government to get back in the business and continue to fill its historical role of funding affordable housing." We strongly disagree.

Just because the changes are not happening quickly enough, that is not a good reason to turn to a mechanism like non-profit housing which, under the NDP and Liberal regimes, proved unable to meet demands or solve problems. The necessary changes can be made with leadership, vision and getting the various levels of government to work together and stop using the housing industry and tenants as political footballs.

The issue has been tackled and resolved in other provinces and states, so why not in Ontario? In the United States in 1995, 177,000 market rental units were built, 50,000 non-profit, subsidized tax programs were built and 51,000 condominiums — 177,000 rental housing units by the private sector. The vacancy rate average in the United States was nine point something per cent.

We know that the pace of change needs to be accelerated, as it will generally take at least two years to have new apartments ready for occupancy. The time is now to make that decision to get it going. It'll still take between 18 months and two years before they're ready for occupancy.

The city of Toronto neighbourhoods committee, for its part, has resorted to spending scarce public funds on tenant rallies and irresponsible fearmongering, as demonstrated in its literature, which states that the government is throwing the tenants to the wolves. They are simply misleading tenants in the blatant pursuit of votes and not solutions. Tenants are the losers in that game.

The fact is, and it's been quoted a number of times, only 20 private rental units were produced by our industry in the greater Toronto area last year, and a total of only 610 units in the province of Ontario. This is strange, as we now have low land prices, low vacancy rates and low interest rates. The reason the industry is not building has nothing to do with the state of the economy, but with the politics and taxation of rental housing.

In 1972, the industry produced 39,000 units when the vacancy rate was between 5% and 7%. It did not cost the government a dime and all those units are still fully occupied and operational. It would cost the government \$1.1 billion to meet basic future housing needs, and that would not include cost overruns. To rehabilitate existing stock would require billions. We've heard that and we've heard the discussion back and forward on that.

It's clearly not going to work. The rent control system and the Rental Housing Protection Act are the biggest job killers in the history of this province. The alliance's economic impact report estimates that if the industry-recommended changes are made, 10,000 units could be built over a three-year period, creating 22,000 — if you'll pardon the expression — man-years of work and generate \$460 million in federal, provincial and municipal tax revenues. Those are revenues that they are not getting

now. I'll answer some questions I heard earlier, if you like, on GST and taxation and some of those other issues.

**Mr Sergio:** It's coming.

**Mr Freedman:** I figured. This does not include the renovation of existing stock, which would add another 15,000 man-years of employment. For instance, it has been estimated that there is \$10 billion in repair work required. Construction requires high-skilled, well-paid workers, and most of the materials are sourced locally.

With regard to the workers, you heard the very first day of this session Mr George Goldlist, my associate and chairman of Goldlist, address some of the issues from a personal level and that of some of the workers in our industry. I am not going to dwell on that; I thought he did a pretty good job.

Building new stock would lower the burden on social services by housing people and creating good jobs. Thirty-seven thousand jobs are equivalent to 12 Scarborough van plants. The above numbers do not include savings resulting from lowering the burden on social assistance programs, such as employment insurance and welfare, and would certainly improve the quality of life.

Earlier this year the alliance endorsed a number of changes to government policies and programs, most of which are contained in the government-sponsored Lampert report. That report included, among others, the following:

Ensuring tenant protection through a mediation program.

Taxing any new rental projects in the same manner as owner-occupied accommodation; currently, taxes are running two to five times higher and now eat up between two and three months of rental revenues.

Eliminating unnecessary regulatory barriers from the design and approvals process.

Reassessing the practice that allows municipalities to levy development charges on new construction that can add up to as much as \$17,000 per apartment unit.

Reducing the rate of GST payable on rental developments to levels consistent with new homes. Currently, the GST payable is 7% on rental accommodation. That compares with 4.448% for condominiums and homes under \$350,000 and with 3.5% that was granted to the non-profit housing industry.

These recommendations have not been seriously challenged by any group and can be introduced at no cost to government. Typically, those individuals who would benefit most from changes are those on housing waiting lists and the forgotten first-time renters, who have virtually no advocates outside the industry.

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With respect to the current proposals to changing the rent regulatory system, we have reviewed and generally endorsed the detailed comments and concerns raised by the Fair Rental Policy Organization and other recognized representatives of our industry.

Government must address the issue of trust. New apartment development must be backed up by a contractual commitment that will ensure new buildings will no longer be subject to the political whims of changing governments.



Tenants are going to get the best protection with a balanced housing market. The industry is on record in support of adequate tenant protection. We can build without sacrificing health, safety or environmental objectives.

We also recommend the criteria used presently to select and approve non-profit tenants should be examined in detail to ensure that units are going to those in need. It is the government's responsibility for housing the needy and must no longer be confused with housing the greedy. I'd like to point out something that was just brought to my attention on the way down here: "Cityhome Used to House Wealthy." It's an article you should all read, because this is just one example.

We are extremely pleased that this government is taking the situation seriously. However, we are concerned that with the slow pace of change, the industry will not be given a chance to work and will be unfairly blamed for not producing rental units.

Our concerns and positions are known. Therefore, we are putting all levels of government on notice that it is incumbent upon them to deal with the concerns we have outlined today. Failure to do so will result in a housing crisis in this province.

We remain confident that these issues can be successfully addressed. The alliance looks forward to its role in finally resolving this problem towards serving the housing needs of the people of the province.

To the submission that's been distributed I have attached a pro forma financial statement that gives effect to current costs, the current situation and operating conditions, compared with the costs and conditions after giving effect to our recommendations. Just in summary, I point out that those recommendations would reduce what right now currently produces approximately a negative return on capital — this is a 258-suite building — of 6.62%, or a \$301,000 loss a year for the next five years, compared with a cash flow of \$221,000, which is a 5.92% return on equity. Among some of the highlights of this that we're recommending, yes, we are recommending the government at the federal level, your friends, should be talked to to eliminate this discrepancy.

**Mr Sergio:** They're doing a good job.

**Mr Freedman:** I'll finish and then you can talk.

We think levies could be deferred. We have a system in which they can still get their money, but don't lay it on to the tenants. Let's put it in through the taxation system that down the road will be able to afford it.

*Interjection.*

**Mr Freedman:** Let me finish. We also refer to some of the other costs in the building code. We believe that the cost per square foot could be as much as \$3 to \$4 less per square foot on a building that's around 200,000 or 300,000 square feet. That cost could be eliminated without harming the tenants, harming the buildings or anything, continuing with the very high standards that built buildings in the early 1970s and even the 1980s.

We believe CMHC, which is now charging a 5% fee on a high ratio mortgage of 85% — now a building of a decent size costs between \$20 million and \$30 million. You're putting on a mortgage of 85% and your mortgages are running between \$20 million and \$25 million.

That adds immediately, right away — 5% is in excess of \$1 million that has to be financed and has to go to the rent.

**Realty taxes:** Realty taxes are currently running at four and even five to one in some municipalities. We have all those facts. Nobody's denied them. Even the mayor of Toronto has not denied them. We haven't done anything about it and it's been there for many years. That can be reduced substantially. That could change as much as \$75 to \$80 a unit.

While we're at it, let me throw another one in. Provincial sales tax — have I run out of time?

**The Chair:** No. You have five minutes.

**Mr Freedman:** Provincial sales tax on building materials: You're not getting the tax now, so let us build and give us a moratorium on those taxes. We'll get those buildings built. You're not getting any money now, the land is sitting vacant, so why not participate with us?

Gentlemen, that's our presentation, and I would gladly meet with every one of you and go over this pro forma at any time you wish — not next week; I'm out of town.

**The Chair:** We've got about a minute and a half per caucus for questions, beginning with the Liberals.

**Mr Sergio:** Thank you very much for your presentation and for coming down to speak to us. I also would like to show you some facts and figures — that it was the Liberal government that produced the least costly and the most housing during our term in office. I have the information here for you.

But let me say one thing: I would be delighted, as a member of the House, and I believe every member and every government would be delighted, if we could accomplish exactly what you said would be the ideal thing for developers and tenants both. The only thing that is left is how we are going to do it. You haven't told us how we're going to do it. All right?

**Mr Freedman:** I think I have.

**Mr Sergio:** You would like to have the best for both. I don't blame developers for wanting to make a buck; I really don't. I'm really sincere when I say that and I believe everybody wants the same thing. But the government has a responsibility to provide affordable housing for the needy, not for the greedy, as you have said.

You mentioned Mr Goldlist, and he went down the list: lot levies, land levies, house levies, development charges, education levies, GST, provincial taxes, realty taxes, red tape. Tell us, what can we do? You have said that if the industry's recommendations were to be accepted, 10,000 units could be built today. What else would you expect from the government so that you can go and start building?

**The Chair:** Thank you, Mr Sergio. Mr Marchese. Unfortunately, the question was too long.

**Mr Marchese:** Two quick questions, if I can. R.P. Applebaum says, "Most evidence suggests that modern rent controls have little or no impact on the amount of investment in rental housing." Do you agree with that?

**Mr Freedman:** First of all, who is R.P. Applebaum? I don't know who he is. Secondly, I'll answer your question. The answer is, it does have an effect, it has an overwhelming effect. Nobody is going to invest money in such a highly regulated industry as this.



**Mr Marchese:** So you disagree, in other words.

**Mr Freedman:** I totally disagree.

**Mr Marchese:** I need to ask you another question. Mr Lampert also states the same thing, very much saying there is a serious doubt whether relaxation of rent control will itself be sufficient to stimulate private rental investment on the scale required.

**Mr Freedman:** Right. I agree. I said that here.

**Mr Marchese:** You consider the government getting involved in co-op and non-profit as a drain on the taxpayer. Do you consider all the giveaways that need to be given to the private sector — the reduced development charges, equalized property taxes, have the GST payable, that whole long list that Mr Lampert says — do you consider them to be a subsidy to the developer and that the taxpayer will have to pay for that?

**Mr Freedman:** No, I don't, because if you balance the revenues that you're going to receive from all the things we're going to do, you will balance and make a profit on it. You're not getting that revenue now. We own some land. We'll build those buildings. It's not going to cost you a nickel. You don't have to put a guarantee on our paper. You don't have to do anything. You do for every nickel you spend on non-profit housing. Don't do away with non-profit housing. There's a need for it.

**Mr Hardeman:** Thank you very much for the presentation. We've heard a number of discussions in the past week about the issue that changing the rent control legislation as proposed in the tenant protection discussion paper will in itself not create the building of new rental accommodations. The minister said that and it's been expressed numerous times during the hearings.

My question looking at all the other issues that have been brought up by different delegations, the tax advantage for owned properties and so forth, doing all those others without dealing with the rent control issue, would that be sufficient to slow down dramatically or to stop the building of rental accommodations, even if we added all those other things and fixed that, as the Lampert report states, but we left the legislation as it is today in Bill 121?

**Mr Freedman:** The legislation as it is, right up front, turns people away. They don't want to get involved. They don't want to invest the money. They don't trust government. They don't trust that this legislation will not get tampered with by the next government, maybe even by this government. It may get tampered with. There is no trust. With it gone or amended, so it's controllable and livable, so we can live with it — we can't live with what we've got now. After all, we only built 20 units. That's telling you right there. So the answer is we think it has to be changed. It cannot function as it is now. Some form of rent control to protect certain tenants is probably necessary, but moderate and something we can all live with and work with, yes.

**The Chair:** Thank you, sir. We appreciate your input this afternoon and your interest in our process.

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#### RAY IRELAND

**The Chair:** Our next presenter is Ray Ireland. Good afternoon, sir. Welcome.

**Mr Ray Ireland:** Mr Chairman, members of this committee, ladies and gentlemen, I consider this paper to be the stepping stone towards the complete dismantlement of rent controls in Ontario, and I don't like this prospect one iota.

In the brief period of time allotted to me to speak to you this afternoon, I wish to discuss a few selected points in the paper that to one extent or another are of concern to me. These points are both pro and con, but I must say, quite frankly, mostly con. Also, I wish to address what I consider to be four major fallacies concerning the overall landlord-tenant situation in Ontario.

Since time is of the essence, I'll get right to the paper. In the first place, the title of this document is highly misleading. It gives the distinct impression that it's all about protecting tenants. Come on now. Where is the tenant protection here? There's nothing in here for tenants they don't already have. I do, however, note that it gives developers and landlords new opportunities to make gains, great gains, yet there is no mention of the word "landlord" or the word "developer" in the document's title. It gives the wrong impression right from the start. It rings a false chord. It's phoney.

Now to page 2 of this document — we'll get right at it — about one third down on page 2, I find something here that's highly offensive, extremely offensive to me. If I show a little anger right now, pardon me, but I find it extremely offensive. I think the government, to put it bluntly, has one hell of a lot of gall to try and jail tenants in their apartments with this sitting tenants nonsense. How dare the government try to —

#### *Interruption.*

**Mr Ireland:** Thank you. How dare the government try to restrict the movement of free Canadians in this way, setting forth what is essentially a two-tiered tenant system, saying in effect that some tenants must stay put in their places or face the possibility of being penalized financially while other tenants may move freely if they can pay the financial freight. This is not fair and it should be drummed out. In my view, this nutty notion should be scrapped and pronto. If it goes through, it may even trigger a challenge in the Supreme Court under the Charter of Rights and Freedoms. Stranger things have happened. I'm very angry about that. How dare the government do this? It's an affront to me as a tenant and an affront to other tenants.

Still further down on this page, just why should landlords get incentives to put money into maintenance? Do other businesses get incentives to keep their properties intact? Don't you believe it for a minute.

Now to page 4 of this document — I told you there would be a lot of cons in it — starting with the third paragraph on this page and ending at the top of page 5. I like the major thrust of this material. Violating landlords should be brought to task and no question about it. They've been getting away with things for far too long, and I speak with authority too, because I know a lot about landlords. I've had a lot of dealings with them as a tenant.

Still on page 5, "The Landlord and Tenant Act." I agree that resolving disputes right now is too complex and too lengthy. Positive changes are need. Simplify,



simplify. That should be the new rallying cry. People are fed up with the red tape. We strangled in red tape in the past 10 years and before that too. But I must say, although I have considered myself to be a highly progressive man, the Liberals and the New Democrats certainly strangled this thing with red tape and made it very difficult for us to get anywhere as tenants. I'm sorry to say that, but it's the truth.

Further down on the page, "Grounds for Eviction." I'm all for a better process to chuck out unruly, inconsiderate and irresponsible tenants who think they can run roughshod over the majority of rule-abiding tenants and the landlords. I'll stop for a moment on that, and I'll tell you that this year has been a bad year for me with bad tenants. The landlord lets them in because they want to fill up the place, and they keep filling up the place. That's money, folks; it's always money, money, money. I listened to the last two speakers. Everything is money. That's the Holy Grail. We must not ever forget money. But don't think about the public good. I want to make it clear I've had a lot of trouble with two tenants in particular. I had to call the police on them and so on. No consideration for people or the landlord.

So there are some bad tenants, but most tenants are good tenants, good people. They just want to live in peace and pay fair rents.

Now to page 6 near the bottom, "Privacy." The hours are too long. Start at 8 am when they come in to check on your property, that's okay, but end it at 5 pm, not 8 pm, and make it clear that it's Monday to Friday only, no weekends or holidays except, of course, for emergencies in all cases. We understand that.

Finally, to page 10, bottom of the page. I believe it's dead wrong to take away municipal control regarding matters concerning demolition, major renovations and conversions of rental buildings to condos or co-ops. This control is necessary. Without it, chaos could ensue.

That's it for my input on the paper. Now I'd like to address what I consider to be four major fallacies in respect to the overall landlord-tenant situation in Ontario.

Fallacy 1: That developers will actually start building new rental stock in Ontario as soon as the government changes the system and eases the rules on rent control. This is a laugh. If this were the case, why haven't the developers shown some sign, just some little signal, however infinitesimal, of intention, of desire to actually build rental stock during the period since the government now in power took office over 14 months ago? I can't understand it. The silence has been deafening. It's most bewildering, particularly when you consider that the developers will never ever get better friends at Queen's Park than Mike Harris and company. Never ever will they get better friends. Believe it. So why the stall? In 14 months, nothing. You ever hear any peekaboo from them? They sit back waiting for everything.

The Premier himself made it clear — I have it in my briefcase there somewhere — the Premier himself made it crystal clear last year that he wanted the private sector to make progress in building affordable rental units before he changed the rent control regulations. He made that very clear last fall, so why aren't these people working? Why aren't they as busy now as a bunch of

bustling beavers to get this job done, to start building, building, building? They're always talking about it. They've got the friends here at Queen's Park who want them to do it, but they're not doing it.

Frankly, I believe that developers will not build rental stock massively in Ontario because they simply don't like the profit possibilities. That's why. They use rent controls as a big excuse for not building. In all candour, Mr Chairman, ladies and gentlemen, I think the developers, who are in most cases the landlords as well or at the very least buddy-buddy with the landlords, simply want to see rent controls abolished, wiped out, so that they can make more profits out of what they already have or their friends have in rental stock, irrespective of the state of the properties concerned. They just want the profits and use what they can. There's a bit of a con game going on here.

#### 1510

Fallacy 2: That apartment building ownership makes for poor investment in the province. Nonsense. I think landlords are doing very nicely, thank you, and so do others. As reported in the Federation of Metro Tenants' Associations bulletin last fall, the Appraisal Institute of Canada, Ontario association, says that apartment ownership has been a good, long-term investment in Ontario because of, not in spite of, rent controls. Landlords are guaranteed an increase in their legal revenue, a yearly rent increase approved by the government. I ask you, how many other industries get this kind of guarantee? Zilch, to my knowledge. In addition, landlords are covered further by the government if the government sees fit to approve further rent increases for one reason or another.

One last point here: If landlords are indeed suffering financially, how come we never see them going bankrupt? Have you ever heard of landlords going bankrupt? I haven't heard of one. Show me one. They do very, very, very well. I'd like to jump in here with a little point I had written down here. When I was vice-president of our tenants association, I said to the treasurer one day, "How do they make out in profits here, these landlords?" He said, "It always works out to 24% year after year after year." "How do they do that if there are vacancies and things go down?" I said. It's because they keep reducing the services, taking away the services; cheaper materials they buy. They're on the cheap, the cheap, the cheap; everything breaks down. There's a big con going on here. It's a fallacy.

Now I'm going to get to fallacy 3: That the apartment vacancy rate in Metro is considerably lower than 1% right now. From what I've seen and heard, I just don't believe it; I just don't believe it at all. There are loads of discrepancies to be considered here. For example, why are there so many For Rent signs around? Go around and look around the city. Get in your cars and go around and see them. Why are there so many For Rent ads in the papers? Go and look at them. You'll see loads of them.

I have it on good authority that in one large rental complex in Metro the apartment vacancy rate is actually more than 10% at this time; that's more than 10% in this large complex. Even the apartment next door to my wife and me has been vacant for nearly three months now. Could this be a widespread phenomenon throughout



Metro, even the province? Has the situation been fully and accurately assessed? If not, it should be. It's important.

The province should obtain all the facts here before basing its case on what I think is a fallacy. I think the truth is that there are lots and lots of vacant rental apartments around Metro but people can't either afford them or they don't wish to live in them because of their substandard, overpriced state. If landlords cleaned up and repaired their properties to a greater degree and made the rents reasonable, they'd fill up their places faster and keep tenants longer. The so-called rental crisis we reputedly have would soon lessen and maybe even disappear altogether in time.

Fallacy 4, the final one: That tenants are getting a free or a light tax ride municipally. Pardon me, but this is a real crock. The housing minister, for one, knows full well and admits freely that renters — and I have proof in my briefcase here too — in Metro pay substantially more in taxes than private homeowners pay in Metro. I want to repeat that. The housing minister, for one, knows full well and admits freely that renters in Metro pay substantially more in taxes than private homeowners in Metro pay in taxes. We, the tenants, are getting a bum rap here. Mr Leach, while speaking at a meeting last February sponsored by the city of Toronto, reportedly said that tenants pay three to four times the taxes that private homeowners pay. The minister said that this matter should be addressed. I agree. Why not include it as part of this overall package to change the rent control picture? I could use a few more bucks right now.

In my haste here, I guess, moving along there in my emotion, I think I might have skipped a place here, but I'll try to remember it as much as possible.

There was talk about my credentials for speaking on this matter. I have been a tenant in Metro Toronto for 40 years, low-rise, high-rise and different things in between. Now, I didn't want it that way necessarily. Many times I came close to getting enough loot ahead so I could buy, but it just didn't work out. Something would happen, another depression, another recession, another up-and-downhill matter, and I never quite made it. But 40 years I've been a tenant here. Also, I had two terms as an alderman in East York, fighting hard for rent controls in the 1970s. I was one of those people that the Tories on our council called names because I dared to fight for rent controls.

**Mr Marchese:** Communist, probably.

**Mr Ireland:** Well, it was pretty close to it, Mr Red and everything, although I was an independent and I still am, although I used to be NDP years ago and CCF, but I'm an independent. The point I'm making is that there is a con game here, I call them fallacies, and these things should be checked out. What I get constantly, and I've been getting for years, is that it's what the landlord wants. Do they check him out? Do they come down and see the places? Do they come down and see what's happening? They don't bother with us because we're people who are transient a lot. I've been living in this particular place for over 14 years, but the point is that they don't treat us with respect. The very fact that we pay three and four times the taxes that homeowners pay is not

being addressed by municipalities or the government. Mr Leach has brought it forth. Why can't it be put in this package? Why can't that be part of it as justice?

The point I'm making is that I think the average tenant simply wants fair play. They're tired of the fear. They're tired that they might be tossed out on the street. They're tired of being pushed around by landlords who have agents, who have money, who have infrastructure, who have the Internet. They have all the stuff. They have the agents. They can wait it out, but the average tenant can't. The average tenant is struggling every week. There must be more thought about the tenant in this thing. To call this "tenant protection legislation" is an insult to me, because it's not. A fairer way to put it would be to call it the Landlord Protection and Tenant Restriction Act, because that's what it is.

I'm going to put this final thing forward here, and I'm just speaking off the cuff. If the tenants ever awaken and come to life in an organized fashion in this province, look out, all of you, because there are 63% of us in Metro and about that same number in the province. If we ever get organized, when the money comes together \$10 at a time and we build something like they did in this country, Grey Power — remember Mulroney saying in 1984 he wasn't going to de-index pensions, oh, no? Have you read the book on that guy, *On the Take*? Anyway, this guy wasn't going to de-index pensions. The moment he got in, Michael Wilson is busy doing it, and we had to fight like hell, but we came together in massive force, Grey Power. The tenants might do it yet. You might see these buildings filling up with tenants, angry about your daring to threaten them and put them down.

I realize I must have gone over my time, and I apologize to you for that and, members of this committee and ladies and gentlemen, thank you for your patience in listening to me. But some of these things have to be said. I'll take your questions. You can ask me all you want and as long as you want. I thank you for your patience and your forbearance with me.

**The Chair:** Thank you very much, Mr Ireland. You've effectively used up your 20 minutes allotted to you. We appreciate your input.

1520

## PARKDALE TENANTS' ASSOCIATION

**The Chair:** Our next presenter this afternoon represents the Parkdale Tenants' Association, Bart Poesiat. Welcome to the committee this afternoon. We appreciate your presence here. The floor is yours.

**Mr Bart Poesiat:** Thank you, Mr Chair and members of the committee. First, an introduction: My name is Bart Poesiat. On my left is a tenant who will also say a few words on behalf of the Parkdale Tenants' Association. Her name is Jill Butler. On my right is Anna Thaker, who is the president of the West Lodge Tenants' Association, a 720-unit complex in Parkdale that has gained some notoriety over the last 10 years, 20 years, and which we will be referring to in our presentation. We'll try to keep our presentation fairly short so there will be some room for questions and answers, hopefully.

First of all, the Parkdale Tenants' Association is a 25-year-old grass-roots organization. We don't survive on



any kind of subsidy, on any kind of handout. We survive by the membership dues of \$3 or \$5 per member. This is Parkdale, so 60%, in some cases, of our people are unemployed, on social assistance. It's a very poor area. But we have survived over the years and we have done a great deal of tenant organizing in the Parkdale area. That has gained some pretty wide reputation.

For instance, organized tenants in Parkdale were able to push out the quasi-conversion from apartments to hotel schemes on Jameson Avenue in the 1980s, in 1988. The Parkdale tenants played a really leading role in that. Parkdale tenants launched one of the first rent strikes in the history of Canada, probably, in the late 1960s, early 1970s, in the West Lodge apartments. Again, we keep on referring to this massive complex. It didn't right away solve all the problems, but it did set a precedent in terms of what tenants could and couldn't do through jurisprudence in the courts. So in a sense you might say that we are veterans of the landlord and tenant wars of the 1970s and 1980s.

Parkdale itself you might describe, especially south Parkdale, as the biggest collection of slum apartment buildings in very bad shape and a large procession of slum landlords who have owned and made money out of those buildings at the expense of tenants, quite often. For that reason, in Parkdale we've gained a lot of experience in terms of maintenance and in terms of what rents should be and in terms of tenant organizing.

Over the years, although things are quite bad in Parkdale, I must say that there have been some improvements, and I will talk about them in a minute. For instance, at West Lodge, the last few years, after endless struggles, rent strikes, legal actions, political actions, the situation has improved, thanks mainly to the efforts of the tenants and ultimately with some support from Toronto city hall. The tenants are now poised to buy their own building and turn it into a non-profit co-op. Again, we have been able to save some buildings in the past from demolition. Also, there are other buildings in very bad shape, but there has been some improvement.

These things, although they were really hard to come by, could never have happened if the recommendations of the New Directions report that we're talking about here were actually law. The recommendations would leave tenants in low-income areas such as Parkdale virtually powerless. I'm not saying that if these recommendations are implemented we're not going to keep on fighting, but certainly low-income tenants would be extremely disadvantaged.

First of all, in the affordability range the whole system seems set up for rent gouging. The rent registry will disappear. Tenants do move a lot, so just by simply moving it would erode the whole affordability of apartments. Over the years in many situations we have been able, through organized action, to keep apartments at a reasonable level. This will disappear with your recommendation. Many previous deputations here have pointed this out, so we're not going to repeat that.

The other thing is that an argument might be made, "If the rents go up, then what about the quality?" There's nothing here that will ensure any kind of quality for apartments, certainly not in Parkdale. There's no enforce-

ment here. Right now, we have an enforcement mechanism. For instance, at West Lodge the rents have been frozen at the October 1990 level because of the extreme disrepair. Under these proposals that would no longer be possible.

Also, to shift the prime responsibility for maintenance of apartments to the municipalities in our experience isn't going to work. The municipalities are already overworked. The city of Toronto, which is one of the better municipalities, we have a heck of a time getting inspectors out and if you say Parkdale, they go: "Oh, boy. There it is again. It's too labour-intensive for us." So that again is a non-starter in terms of maintenance.

Supply: So many times it has been pointed out already that rent control in itself, if you lift rent controls and you ease up the restrictions, that is not going to guarantee that builders are going to build apartments that tenants can afford. They can build apartments where you pay \$1,300 a month in rent, but if you can afford that kind of rent, you might as well buy a house or a condo. So people in Parkdale who are averaging \$14,000 or \$15,000 a year are not going to be able to move into apartments that are going to be built on the open market. We believe, with many other deputants who have gone before you, that this New Directions is not going to ease up any kind of supply in Metro Toronto.

Finally, the security of tenure provisions that you are suggesting, faster evictions and taking things before tribunals, that leaves us aghast. Already there is intense pressure on people in Parkdale; the amount of evictions is horrendous, economic evictions quite often because people can't pay their rents any more and this certainly wouldn't do us any good in terms of fighting for our rights. So the results would be social dislocation, more homelessness, more poverty, more reliance on the food banks. One might even say that the food banks would be subsidizing landlords.

The other important thing to keep in mind is this would greatly increase the adversarial relationship between tenants and landlords. We've had our share of that in Parkdale, as we've pointed out, but it's going to get worse. Already we have large meetings. We had one last winter when we didn't know what the rent control and tenant package would be and 200 people showed up in a snowstorm. I can guarantee you that the adversarial nature which was just starting to ease a little bit at the end of the 1980s and the beginning of the 1990s will increase. There won't be any peace in this sector.

I will now pass on for a couple of minutes to Anna Thaker who, as I said, is the president of the tenants' association at 103-105 West Lodge, which is a very notorious building.

**Ms Anna Thaker:** My name is Anna Thaker. I have to tell you that my tenant association has worked hard to get — we had a rent strike with the landlord. We had a slum landlord for 20 years and when we had the rent strike, the landlords ran away from the building. They never paid the bills, any kind of bill, and they only blame the tenants. Everything is tenants. Meanwhile, they get the higher rent and they build a hotel in the Bahamas and Cayman Islands. They didn't build apartments here. Is this government is going to give me a guarantee that



when they get more money, they are going to build a building here, or are they going to build a hotel in the Bahamas or the Cayman Islands?

I'm not happy with this government that is trying to abolish the Rent Control Act. By abolishing this, what will be the tenants' rights? Where do we go? I tell you, in my building at one time there was no heat and light. We were freezing in minus-45-degree temperatures for three weeks and the landlord was sitting in Florida.

**1530**

Another thing I'm here to tell you — the previous gentleman said that none of the landlords has gone bankrupt, none of the landlords has gone to the unemployment line and they haven't gone to the street. That will be the situation for us if the new government's going to abolish rent control and the rent registry. If the harassment of a landlord is too much and I have to move out, where do I move to? How am I going to find out? Which building am I going to ask if I can afford the rent? Government isn't telling me how I'm going to do it.

This is what I have to say, and I hope that all the tenants in Ontario get together and give the message to this government, because we are the highest taxed. We pay more property tax than all the homeowners. I hope all tenants get together and teach the government that they have to do more for us than landlords because landlords are making more money and getting richer. Because they are getting richer, they can hire the biggest lawyers to fight the tenants.

I tell you, the harassment — in my building how many times they shoo the dog behind me because I was and am still the president of the association. When I go outside, they shoo the dog behind me. They smash my car. How is this government going to stop landlords doing these kinds of things? How the hell are you going to stop it? I'd like to know this.

I want to stop here. Thank you.

**Mr Poesiat:** This is Jill Butler.

**Ms Jill Butler:** I am a tenant, have fairly recently become a tenant through a series of circumstances. I rented accommodation in a house and I was given illegal notice to vacate. I was recovering from a serious car accident at that time and I wasn't given the proper time to find other accommodation.

I approached Parkdale legal services to help me and they responded. I did attempt to communicate with the owner of the house. I was actually a subtenant. The tenant of the house refused to cooperate and give me the information where I could actually sit down and try to work out something so I had the appropriate time to look for other accommodation.

This wasn't given, so Parkdale legal aid services — and I've just got to commend them so highly — came to my aid and my case was taken to court. After a couple of court appearances, the judge ruled in my favour that I did have rights as a subtenant and I was given adequate time to be able to find accommodation.

Two important things: My background is in social services. I have worked for over 25 years. I've worked with seniors, I've worked in the mental health system, I've worked with sole-support mothers and I was a director of a youth agency, so I am very familiar with

housing issues, specifically affordable housing. It has been part of my job to help people seek out affordable housing and also to be an advocate in landlord and tenant relationships. As I said, at this time I find myself a tenant and my experience as a tenant to date in the way I have been treated by a landlord has certainly left a lot to be desired.

I want to make another point too, that I was able to avail myself of legal aid and that worked for me. I got prompt attention, really good quality help, and my rights were upheld. What this government is doing to the erosion of the legal aid system — this could not be available to me in the future. Legal aid of course covers many things, but it also covers legal aid for tenants.

Also, if rent controls had not been in place and the other safeguards that tenants have were taken away, my story — and I was disabled at the time — in looking for other accommodation would be quite a different story. I probably would be living in real subsidized accommodation at this point.

The other point I want to make is, we talk about homeowners. I think when we look at tenants we should talk about homemakers. Tenants make homes. Men, women, children, families make a home. It isn't just accommodation. It isn't a unit, it isn't an apartment; it is a home and tenants, or homemakers, should be able to live in security, free from harassment and free from fear. If they choose to move, whether it be out of necessity or whether it be out of desire, they should be able to do that freely without restrictions, without the fear of economic disaster and without the fear of moving into subsidized housing with their families, with their children.

The removal of rent controls and the safeguards that tenants have is going to be disastrous for tenants. As has already been said, the tenants are a large and powerful movement, so governments who are thinking of doing these things should really think twice.

**The Chair:** Thank you. You've got about a minute left, if you've any further comment. There's no time for any practical questioning, so any further comment just to wrap up?

**Mr Poesiat:** We'd hoped to have some time for questions, but I guess we ran over a little bit. Do you have anything?

**Ms Thaker:** I have one question. Suppose I move tomorrow from my building to another building and I am on social assistance, getting \$510, and my rent will be \$1,000, who's going to supplement this difference?

**Mr Curling:** Good question.

**The Chair:** I'm not sure there's anybody here who can answer that question, so on that note we'll thank you very much for your presentation this afternoon.

**Mr Silipo:** Ask the minister that question.

**Ms Thaker:** Okay. Thank you.

**1540**

#### URBAN DEVELOPMENT INSTITUTE APARTMENT GROUP

**The Chair:** Our next presenter is the Urban Development Institute, Stephen Kaiser, Annette Fogle and Tammy O'Neill. Good afternoon, welcome. The floor is yours.



**Ms Annette Fogle:** Good afternoon. My name is Annette Fogle, and I'm the chairperson for the Urban Development Institute Apartment Group. Joining me is Tammy O'Neill, our co-chair, and Stephen Kaiser may be on his way. He's the president of the institute.

I would like to thank you for allowing us the opportunity to address your committee this afternoon. The Urban Development Institute Apartment Group was established in 1957 as the voice of Canada's real estate industry. Our members include residential landlords and property managers representing large and small buildings consisting of more than 80,000 apartment suites across Ontario.

UDI Apartment Group members subscribe to a code of ethics and high standards of maintenance and service, which helps us stand out as landlords putting our tenants' needs first and foremost. In response to the invitation of the Minister of Housing through his consultation paper entitled *New Directions*, the apartment group of the UDI of Ontario makes the following submissions. The issues raised herein are not meant to be exhaustive, and further submissions shall be made in more detail when the draft legislation is introduced.

The *New Directions* paper released by this government is not what was proposed by this government before and following the election. Our industry has been controlled for 21 years and it is time for landlords to once again do what they do best: serve our tenants in a free market. We are business people, and tenants are our business. This controlled system has pitted tenants against landlords, and we wish to go back to the time when landlords and tenants sat down together and everyone walked away satisfied.

This government refers to "vacancy decontrol"; however, as proposed, this procedure does not constitute a rent decontrol program. The legal maximum rent must remain, as it represents rental levels which have previously been justified and which could have been charged. On turnover, landlords shall have the opportunity to re-rent suites at the prevailing market level, without running the risk of losing previously justified maximum rents. These factors combined will gradually put us in the direction of eliminating rent control.

This will take many years to achieve and will not be a hardship for tenants. It will be a gradual process but will encourage developers to build and add rental suites to the market. It is still our obligation to follow the market, and when the market is down, there are discounts that have to be put in place so that we can rent out the units.

We at the UDI Apartment Group are supportive of the positions adopted by our colleagues in the Fair Rental Policy Organization and the Rental Housing Supply Alliance. This paper is submitted in order to clearly define the position of the UDI Apartment Group on certain issues which we wish to make known to the standing committee on general government.

One proposal contained in the discussion paper is to eliminate the concept of legal maximum rent. One of the government's best incentives to do so is that along with the elimination of maximum rent will be the elimination of the rent registry. However, one can eliminate the rent registry, maintain the concept of maximum rent and still

provide protection to the tenants from unfair rent increases.

UDI Apartment Group proposes that the current maximum rent on all units be preserved. These maximum rents will increase annually by the government statutory guideline, and a landlord may not increase the rents above that guideline unless one of the following conditions is met: the landlord makes application for an above-guideline increase or the landlord and tenant agree to a higher amount of rent. In that event, either the ordered rent or the agreed-upon rent becomes the new maximum rent, subject to annual guideline increases. Nothing prevents the landlord from charging a lower rent, their doing so having no effect on the maximum rent.

The tenant is protected from arbitrary above-guideline increases by having either the right to consent or the opportunity to demonstrate why the maximum rent should not increase. This can be done by opposing any application filed by the landlord with the ministry. There is no need to maintain the rent registry, as rents will be set by order or by agreement between the parties.

Where maximum rent cannot be easily established, section 10 and the relevant regulations under the current Rent Control Act provide a method for determining maximum rents and should be adopted with necessary modifications.

The paper proposes that landlords should be able to apply for rent increases above guideline on the basis of capital expenditures and extraordinary operating cost increases from municipal taxes and utilities. In the latter case, an increase would not be capped on the grounds that tax and utility cost increases are outside a landlord's control. Increases resulting from capital expenditures, on the other hand, would be limited to no more than 4% above guideline, with a carryforward of two years, a maximum of three years at 4%, or 12% in total.

UDI Apartment Group has no problem with the proposals related to extraordinary operating costs. However, the implied suggestion that capital increases are somehow optional for landlords and should therefore be capped over three years is flawed. Rent increases as a result of capital expenditures should be subject to a cap of 4%, we agree, but without a limit on the number of years of carryforward. If additional capital work is required during the term of the carryforward, a new application should be allowed, with the approved increases to run consecutively. Work of a capital nature is imposed by code changes from time to time, and basically we're referring to that.

True vacancy decontrol would mean permanent removal of all controls from a unit once it becomes vacant. The proposed legislation only eliminates rent control temporarily. In order to maintain fairness, particularly in the current market, maximum rents must be preserved.

UDI Apartment Group proposes that sections 23 to 28, inclusive, of the current Rent Control Act be eliminated from the new tenant protection act. The grounds set out in these sections constitute duplication with the current Landlord and Tenant Act and have led to a multiplicity of proceedings. Relief for tenants in circumstances where the premises are in a state of disrepair or unfit for



habitation has always been available upon application under section 94 of the Landlord and Tenant Act. This avenue of relief should continue; however, there should be no ability to order permanent rent reduction.

Our position on this particular section is simple and strongly held: To reduce a landlord's maximum rent is anathema with respect to the government position on stimulating the economy and, in particular, to the building of more rental housing stock. Rent reduction may lead to reduction or elimination of earnings in the rental housing sector, thus removing the financial ability to carry out needed restoration.

The discussion paper raises issues with respect to maintenance of buildings and increasing the power of property standards officers vis-à-vis landlords only. It is the position of the UDI Apartment Group that there can be no equity under the law unless property standards officers are also given authority to enforce the same proposed powers and measures against offending tenants.

Currently, a property standards officer makes no determination as to who may be responsible for a violation of property standards. It is certainly not unheard of that a tenant may vandalize a property. Under current legislation and that proposed, it is assumed that the liability falls to the landlord; indeed, any and all penalties that may be imposed also fall to the landlord, even where it may be apparent that the property standards violation resulted from the action of the tenant.

#### 1550

It is the recommendation of the UDI Apartment Group that when an in-suite deficiency is reported by a tenant, causing a notice of violation to be issued, a copy of the notice should be given to both landlord and tenant and a determination be made as to who was responsible and which party is to rectify the violation. If the property standards officer is unable to make such a determination, then the landlord will be given the responsibility of clearing the notice of violation. However, such notices shall clearly state that no determination as to the responsibility has been made.

If the government is serious in its announced intent to reduce and eliminate inefficient and wasteful bureaucracy, property standards officers must have the ability to first issue a notice of violation. In many cases the complaint is made directly to the property standards officer without first notifying the landlord. Often landlords are not aware of a violation until such time as a notice of violation is issued. The guiding principle should be to make the landlord aware of a situation before orders and penalties are issued.

Tenants should be required to notify their landlord in writing of any requirements for maintenance and the landlord should be afforded a reasonable time to rectify the problem. Common law dictates that these are but a matter of fairness and common sense. Indeed, required written notification will also reflect some of the case law arising under the Rent Control Act, which suggests that landlords will not be held liable for violations where there is no written verification.

In the event that a landlord fails to comply with a municipal order issued by a property standards officer, it is appropriate that there be consequences for such non-

compliance. It is not appropriate, however, that landlords should face double or even triple jeopardy due to non-compliance. Even the worst of society's criminal element is spared that.

Currently, in the event of non-compliance with a municipal work order, a landlord may be prosecuted by a municipality while at the same time facing an abatement of rent under the Landlord and Tenant Act reduction in rent under the Rent Control Act, or an order prohibiting any rent increases under the Rent Control Act. It is important to note that all of the above could arise from deficiencies originally caused by the tenants.

UDI Apartment Group supports the government's intention of eliminating orders preventing rent increases. We would also suggest that the penalties available under the Rent Control Act relating to maintenance standards be eliminated and that those under the current Landlord and Tenant Act be adopted. The existing measures to protect tenants from poor maintenance conditions under the Landlord and Tenant act are sufficient.

The discussion paper indicates a stronger approach to dealing with harassment of tenants by landlords. No one can argue that harassment is intolerable and must be curtailed. However, "harassment" needs to be defined. What a landlord may consider as exercising its legal rights, such as posting notice of termination on a tenant's door, may be, and often is, considered by the tenant to be harassment. In order to prevent many frivolous claims of harassment, it behooves the government to clearly define "harassment" in the legislation.

It is singularly unfortunate that the discussion paper omits the very real problem of tenants harassing their landlords, particularly landlords of small buildings. If the government wishes to be evenhanded, then sanctions for harassment must apply equally to landlords and tenants.

UDI Apartment Group is generally supportive of the proposal made with respect to assignments and sublets in New Directions. It is proposed that the new legislation should give landlords the ability to treat a sublet and transfer as a new tenancy under the vacancy decontrol measures and to adjust the rent to market accordingly.

In the debate respecting the courts vis-à-vis an administrative body for dispute resolutions, one often hears of the time factor delays in the system and the time required to process even the simplest case. This type of discussion is useful and indicative of the symptoms, but does it reveal the underlying problem?

If one examines the Landlord and Tenant Act, particularly section 113, it would be determined that the act does require amendments, but its wording is not the cause of a long court process. Although the question of the registrar's powers must be resolved, few other changes to the act are required to streamline the process.

One recommendation would be to ensure that all moneys owing by a tenant on arrears matters would be paid into court prior to any further court process.

What is definitely required to streamline the process is adequate resources. For example, a three-week delay from the registrar hearing to a trial date is not due to the wording of section 113. The problems lie with the lack of justices assigned by the court to hear landlord and tenant matters, and the restriction on the power of the registrar



both to issue final orders when a dispute has no merit and to issue orders for costs where a default judgement is signed. When there are in excess of 50 cases a day routinely set down for hearings before a justice, that reflects a lack of resources, not an inadequate wording of the legislation.

In view of the fact that the justices who currently hear these matters are paid for by the federal government, this government needs to reassess whether true savings would be realized if the venue for dispute resolution is changed to an administrative body with sufficient resources to streamline the process. It would be more advantageous to simply assign the resources necessary to the courts by increasing the registrar's powers to expedite the process.

In the alternative, in the event that an administrative body is the chosen venue, that body should be at arm's length from the government so as to preserve the basic principle of democracy that judicial functions must be separate from legislative powers.

Hearing officers of this body should be appointed by order in council and have appropriate qualifications and experience in residential tenancy law. These officers would be bound by the common law where it is not changed by this legislation and must have consideration for the decisions of their fellow hearing officers. There should be extensive training provided to the adjudicators concerning their duties on evidence, procedure and residential tenancy law. Once a hearing officer has been hired, there should also be ongoing training to keep them up to date on developments in the statute and common law.

We concur with the submissions of our colleagues at the Fair Rental Policy Organization of Ontario with respect to set-aside motions being made, with notice and on reasonable grounds for dispute, with limits on extending the time to bring such motion.

The test with respect to a set-aside motion ought to be twofold. The person hearing the motion should be satisfied that there was good and sufficient reason for not attending the original hearing. Once satisfied, it must be demonstrated that there is a dispute with merit or reasonable grounds for dispute before the motion can succeed. It serves no purpose to set aside a judgement where the results of a new hearing are likely to be the same as that ordered on the default judgement.

The common law currently holds that the court has no jurisdiction to set aside a default judgement after a writ of possession has been executed. This should be reflected in the wording of the new act.

Upon filing of an appeal on rent control matters and in order to maximize the use of the new administrative body, decisions of this body would be subject to review by a senior adjudicator. From this level there would be an appeal to the Ontario Court (General Division) on question of law only. An appeal on landlord and tenant matters should be to the Ontario Court (General Division) on questions of both fact and law.

This appeal procedure eliminates the demands on the Divisional Court, placing the requirements on the Ontario Court (General Division), which has more resources in place, which has always dealt with residential tenancy law issues and is more accessible to the layperson. The result is a more efficient and less costly appeal process.

UDI Apartment Group looks forward to making further submissions with respect to these important issues and will do so in more detail once the legislation reaches its first draft. We also offer our services to the government. We have been sitting with the government on presentation and putting together what is best for landlords and tenants, and our time is still available if called.

**The Chair:** Thank you very much for that offer and for your presentation this afternoon. You have very neatly used up your 20 minutes, so it doesn't allow any time for questions. We appreciate your input.

1600

MIKE FIDDES

**The Chair:** Is Mike Fiddes here? Good afternoon, sir, and welcome to our committee. The floor is yours.

**Mr Mike Fiddes:** When I put my name in for this committee, first off, I didn't think I'd actually get on the list. Apparently the list was quite long; I was surprised I got on. Then I had to wrestle with what I was going to tell you. I figured you'd hear a lot of things about what's going on from both sides. I find that a lot of people don't want to touch on areas that I touch on because they're afraid of ruffling too many feathers.

I've been dealing with tenant issues for, I'd say, about 30 years. I started off in Quebec, and the problems I've come across since I moved here 16 years ago I cannot believe. I would have never guessed that there were this many problems here.

The system is a joke. The first thing wrong with this system is the fact that they insist on taking tenants out of the legal system. Landlords are not charged with anything. They enter your apartment illegally. They can do anything they want. You phone the police and they say, "Oh, it's a landlord and tenant issue; it's not our responsibility."

We pay taxes. We have been given credit for paying taxes only recently. Fifty per cent of my rent is taxes, yet I get next to no services. I phoned the police about two months ago because of a break-in at the back of the building adjoining us by some young people. Within three minutes there were four police cars there. Two months prior to that, there were 34 vandalized cars in the same building, in the parking lot. The tenants were told when they phoned: "We can't be bothered showing up. Just give us the details over the phone." That's ridiculous. The landlord is not paying the taxes, yet they show up like that; but we pay them and we get nothing.

It's the same thing, basically, with the government. We have filed complaints. They go to the landlord first and tell him about it. We used to have a problem that if you filed a complaint with the city, they would go talk to the super and tell him before they even showed up at the tenant's. We had to fight like hell to get that changed, because they'd both come down on us as if we were the culprits. What happened was that the landlord was withholding the heat.

My mother moved into the apartment a year before I did. When she moved in, the bathroom sink had 40% of the porcelain missing and the taps leaked continually, as did the ones in the kitchen. Numerous other things had to



be done; walls had to be fixed. They finally fixed the bathroom sink 12 and a half years later and the taps at the same time. They haven't fixed the taps in the kitchen. Oh, they did replace the spout; they gave us a new spout. That was very nice of them. Since then the floor in the kitchen had to be replaced because it collapsed from the water moisture. The counter needs to be replaced. It's cracked and swollen. They've had to replace a couple of doors in the cabinets because there was so much leakage that eventually they just fell apart.

There's damage because of water that was running originally in the dining room to the parquet floor. I have no doubt that when we move out, they're going to walk in and figure they should replace a whole section of the parquet floor and charge us for it, even though it was caused by their stupidity.

In 1982 they tried to evict us because of the dog. There were several other people with animals in the building at the time. The manager sent a registered letter to us stipulating that he had letters of complaint from the tenants in the area that our dog barked and howled at all hours of the day and night. Not only did the dog not do this, but no such letters existed. We managed to get the case thrown out, but the justice wouldn't do anything about it. He refused to press charges against them even though it's illegal to do what they did.

They have tried four times since then to evict us. They've withdrawn the case every time when we've gone into court and gone into the hearing with the clerk. They've simply pulled the case.

I looked into some of the problems and realized that the landlord and tenant courts in this province are not connected to each other. You cannot do research from one area to another to find out what the landlord's doing. I made a proposal to the government, and during that proposal I did research. The best I could come up, based on the information I could get — it was very hard to get information off the government. Every time a landlord takes it to the point of going to the clerk and they withdraw it, it costs the government somewhere between \$1,800 to \$2,000 — our money. They don't charge them. Why isn't the landlord paying for this?

This is simple harassment. He figures if he takes you to court often enough, you're going to get fed up and leave. The last time, I turned around and said to them, "One more time and I will go after the owner and I will slap them with a \$5-million lawsuit for malicious persecution." Since then, all they've done is harass us.

I found out by accident about four years ago that there are glass fuses in our building. They're classed as type C and file 102. These fuses were withdrawn by the CSA because they're a fire hazard. How I found out about it is that one of them blew in my stove, and before it blew, it melted all the insulation off the wire, burned the insulation inside, as well as scarring the back cover of the stove, and melted the wire through. We can't get the fire department to look at this. They are concerned. They say, "Anything that causes a fire...." We say, "This causes a fire," and they say, "Well, it's not our responsibility."

On top of that, the landlord several years ago padlocked our fuse boxes. I want the fuses in there out. I put all brand-new fuses in my stove.

I don't know if anybody here knows what a structure fire is. It's a fire that starts in the walls. Fuses go two ways: They either burn or they do what is commonly referred to as a slow burn, until they heat up to a particular temperature at which they burn. The new standard is 50 degrees centigrade. The type C and file 102 fuses are set to a standard of 200 degrees centigrade. That's 392 degrees Fahrenheit. That means if they go through a slow burn, they're going to start a fire in the wall of our building, or any other building. As far as I can tell, they're in every apartment building that I've gone into so far that I've randomly checked. Even in the public housing buildings, I found them. Nobody wants to do anything about it. Nobody wants to take responsibility.

It seems to me that tenants are the only truly representative group of voters in this province. Any group, no matter what it is — old, young, single parents, female or male, any race, colour, creed, sexual variation, whatever — there is somebody who is a tenant who represents them. Yet we get no respect.

Our landlord has gone for increases on work that he should have been saving money for. In 1990 we had concrete work done. He spent \$660,000 on our building. Two days after the work was finished, the walls were leaking again. It was raining out and they were watering the lawn. They spent \$660,000 to have this work done and the underground parking still leaks in the same place as it leaked before.

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In 1993, he took us to rent review for an increase in the rent. About seven years ago, we changed management companies. At first, I thought they'd just changed the name, and through research, I found out they started a new company and simply moved our building in with the new company. What they did was that the company we have now ordered the work. They had our old company pay for it. It's paid on their cheques on their accounts. The companies are not connected. They're owned by the same people, but they are separate individual companies, a fact that can be proved by doing what I did, which was to check the registrations. What they've effectively done is they've tried to evade paying the taxes.

We brought this up in the hearing, not about the possible tax evasion but the fact that they had not incurred the debt. We pushed and pushed and pushed. Finally, the adjudicator insisted on having proof that the two companies were the exact same company, which of course the company couldn't produce because they aren't. We got the decision: The landlord got the increase. I'm one of the few people who bothered to read the decision. The testimony was altered so that they could get the increase. That's fraud, misrepresentation, obstruction of justice. I personally have been up to rent control and twice talked to the director, but nothing has been done about it.

Our elevators have a different owner on the licence. I didn't get a chance to pick up the file, but what I have found out is that the company hasn't existed for 12 years. It's been at least 10 years since they have bothered to inspect our elevators. I have been told repeatedly by repair people — because they have to show up so often — that they are paid to patch the elevators, not



repair them, even though they're required by law to repair them. In one particular case, I was told that a part which was continually breaking down in one of our elevators would cost \$1,500 to replace. One of the people said he has access to the files because they have to look at the history of it when they come in to fix the elevators. He says they've spent something between four and five times, by patching it, what it would have cost to fix it properly by replacing the component. Who do you think is paying for this? The landlord, out of the goodness of his heart? The man is hard done by. I would be too if I were wasting money like that.

Being a landlord is a business. If they insist on not treating the landlord like he's running a responsible business, tenants will continually get stiffed and you are going to end up with a serious revolt, because the people are getting real upset, real mad. I can tell you, I've been talking to them, and there are more and more people. They voted the NDP in, and the NDP stiffed us. They said the unions put them in. I went around and talked to the unions. The rank and file said, "No, we didn't put them in; roughly 50% of our members voted Liberal." We put them in. They didn't do anything for us. Bang, they were gone. It will be a cold day in hell before the NDP gets back in again. You know, fool me once, shame on me; fool me twice, shame on you.

The fact of the matter is we've had it. I've got nothing against an honest landlord, and I admit small landlords get stiffed. I've always said the law should be fair. It should be 50-50 right down the middle. If we're entitled to an increase because the landlord really can't afford it, manage to run your business. But we're a captive audience. This is not like a regular business.

This market value — our landlord has already tried this routine. He put seven more units on the ground floor, because we have an older building. He tried charging market value. He was up to \$1,000 when he had to reduce those rents to \$700 because he couldn't get anybody to stay in the apartments. The whole idea of market value is ludicrous for an apartment building. If they spent the money on keeping the apartments fixed, that would be something, but they don't, and every time they have to go for an increase, they turn around and they come to us and say, "Hey, we're sorry, we're poor and we can't afford to do this."

Our landlord is now going because of increased heating costs, gas costs. It's very interesting he decided to do this at this time, because a recent article in the *Financial Post* says they're giving the gas away; they're selling it at less than cost because of the surplus. You think we're going to be able to go next year and say: "Hey, you didn't pay that much for gas last year. We should get the money back"? Do you think we'll get it? I don't. He wastes money. Do we end up paying for it? Sure.

Any other business like that where you've got a problem, you go elsewhere. You just can't up and move every time a landlord wants to do this to you. If the government is prepared to give us the money to move every time we have a problem, hey, we'll do it. You want to pay? It cost me \$500 to move last time. If you want to give me the money to move, I'll move. I'll find another

apartment, and if I get into a problem with him in two or three months, I'll move again. But the government is not going to do it; the government is complaining it's got no money.

Scarborough will not enforce property standards bylaws. I'm going to tell you something right now: They'll say one thing on one side, but one of our past councillors told me — the reason he got voted out is because of this — they don't get the money, so they don't charge. The money goes to the province. They don't want the province to have the money. You don't have any money? There's your reason. I'm willing to bet you right now that last year Scarborough failed to write, conservatively, \$100 million in property standards violations, without a joke. That's where your problems lie.

If the landlords can be trusted, fine. You want to solve the problem? Make it 50-50 and stop taking the landlord out of the Criminal Code. When he does something illegally, arrest him. If we do it, fine, arrest us. But do something about it. The biggest problem you've got is they'll get away with holy murder. Go into landlord and tenant court.

Someone recently went in and told me they were told the rules of evidence don't apply. We had a landlord go in and get a judge to rule that those apartment-sized units, double-stacked units for a washer and dryer, are illegal for an apartment. You can imagine the response I got from companies like Maytag when I told them that. They are built to the standards required by law specifically for that purpose.

I'm trying to think. There was another case. In that particular case they never questioned the qualifications of the people giving the testimony.

We had one of their electricians come into my apartment. The guy replaced the cartridge fuses. The peculiar thing is — I've been living in apartments for about 40 years — I didn't know there was a block of cartridge fuses that controlled the outlets on the wall over the sink in the kitchen. This guy took some fuses out. One was a 20 amp, which shouldn't have been in there; even I know that. But you're going to love this. It's a disposable fuse, right? He took it apart and he rebuilt it. So I went out and bought brand-new fuses. I took it to Hydro. They took it to their lab and they said flat out, "You may as well put a steel bar in there." It wouldn't have blown no matter what happened. This is a qualified electrician working for this company? I don't think so. I don't think anybody who spends that much time trying to become a qualified electrician would turn around and do something as stupid as that.

I'll tell you something else I found out recently by accident. I found out that a number of the outlets in our building were wired backwards, apparently during construction, and based on a friend of mine who worked for one of the companies that made bricks and some of the stories he told me and other things I've heard, I'd say the wiring was probably done by an apprentice who wasn't being supervised and this got past property standards when they were checking the building out when it was being built. There's a reason for an outlet to be wired a certain way. A large number of the outlets still



don't use grounded plugs; in fact, as technology increases and motors and everything become more efficient and require less power, more and more plugs are going to start going back to two-prong. This outlet doesn't work properly. You can use it, but as I said, there's a reason for them to be wired in that way, and when they're reversed what does that do? I'm not sure. I don't particularly want to find out, particularly if it turns out to be a fire.

I went through a fire once, caused by someone's stupidity. I almost didn't get out, and I was on the first floor.

**The Chair:** Mr Fiddes, your time is up. We appreciate your comments today, your input into our deliberations. Thank you very much for coming and attending with us.  
1620

#### ROSEMARY DUFF

**The Chair:** Our next presenter is Rosemary Duff. Good afternoon, Ms Duff.

**Ms Rosemary Duff:** Thank you very much, Mr Chairman and committee, for this opportunity. I'm here just representing myself. I'm a senior citizen and a tenant. I hope my comments are going to be helpful to you.

Abolishing rent controls is going to increase rents. This seems to be about the only point on which everyone agrees — the government, the opposition, the builders, the developers and the tenants. But many tenants can't afford the rents they have now. A developer or a landlord can make a decision to build something or to renovate something or not. But for many tenants, the decision is going to be whether to live indoors or out on the street, and they won't get to make the decision either.

Ontario represents a very wide range of housing needs and problems, right from the inner city here in a large urban area to small cities, small towns and rural areas. The abolition of controls across this very varied range of tenants will make no great difference to some, the privileged few, but will be catastrophic for others. If there is to be an overall policy, it must be geared to income. Market forces are not an appropriate environment for those who have no force to begin with.

If you link decontrol to vacating you will only tie tenants down unfairly until, in less than 10 years for all practical purposes, apartments will be decontrolled. At present new apartments are already decontrolled, at least for a time, for five years.

Toronto and Ontario — and we have heard that this afternoon here — have always been known as a city and a province of homeowners. Renters have been described as the invisible population. But in Metro 52% of households are renters. The further down you go on the financial food chain, the greater the relative percentage of renters. I think it would be more than unfair — it would be cruel — to place most of the burden of the risks of decontrol on the shoulders of those who can least afford it.

There's obviously a considerable risk. Nothing is committed to by private developers and the historical record is that they have never provided enough affordable housing, whether rent controls were in place or not, in

any jurisdiction at all. That is why a previous Conservative government brought in rent controls in the first place.

The homeowners culture discriminates against tenants in a number of ways, such as partial relief from GST in the building of homes but not apartments, the taxing of apartments at the commercial rate and so on. Metro tenants pay municipal taxes at an average of four times the rate that homeowners do, and in Toronto I'm told it's six times the rate, despite the economy of scale in delivering services to apartments. This discrimination must end under the new assessment and tax system, and benefits to tenants under this change must be clearly seen to reach the tenants. I think the Ontario government should legislate that all municipalities should from now on send tax information directly to tenants instead of to landlords, as they do in Toronto and one or two other local cities.

An apartment is just as much a home as a house is. Security of the home should be the principle that takes precedence over profit and property rights and all other considerations. We have a very insecure economic environment at the moment. Abolishing rent control will only make it worse. Economic evictions are up, homelessness is up and TB is back, together with other diseases that thrive only in conditions of desperate poverty.

The economic arguments in favour of continued government support for non-profit housing seem to me to be very convincing. It costs \$190 a month to subsidize a publicly owned unit, \$390 a month to subsidize a tenant in a privately owned unit, on the average. Of all housing expenditures before the present government put its policy into effect of getting out of the housing business, 5% was spent on building publicly funded non-profit housing — \$198 million a year — but 64% was spent on shelter allowances, mainly to the benefit of private landlords, to the tune of \$2.8 billion a year. Also, when the mortgage is paid off on a publicly owned building, it becomes a profit centre for public benefit.

Private developers also wish to deregulate in other areas, including the building code and the environment.

A free market is essentially a licence to plunder. This should not be tolerated in housing or in any other essential public service like education or health care.

Conversion to condominiums should never be imposed to any tenant whose rights, even if offered financial compensation, must have priority.

Pressure from developers should not be allowed to dilute the standards of the building code, which is at present under revision. On the contrary, as it is cheaper to build at the beginning with flexibility for adaption for the disabled, this should be mandated. The blind, the deaf and people in wheelchairs should not be subject to any kind of surcharge.

Capital reserve funds should be made mandatory in future, and accountable.

I believe there are better ways of paying down the debt than by borrowing more to give a tax break to the rich while throwing the poor into the streets. The trickle-down theory has been discredited. It is not an economic theory so much as a device for getting elected. There are more moderate and more efficient ways of paying down the debt, including the part of the debt that is necessary to



ensure that Ontarians are decently housed: New policies for public-private ventures are being worked out by Central Mortgage and Housing; co-ops can offer mortgages at reduced rates with greater flexibility; municipalities own serviced land which could be made available at less than cost; and the banks could start contributing to the solution instead of to the problem as they withdraw from their one- and two-storey branches, most of which are prime sites for locally financed infill housing.

I believe that the major task for this government is to encourage cooperative, innovative approaches to housing as well as to other problems. The central issue is full employment. Until the unemployment rate is 3% or less, I believe the government must remain in the housing business. There have been serious mistakes made in the implementation of some public housing in the past. They should be corrected, but not at the expense of the homeless.

**Mr Marchese:** Thank you, Ms Duff, for your well-thought-out presentation. You brought out some different points that many others have not raised. You made a point that I agree with — and I just wanted to put it out again — “Market forces are not an appropriate environment for those who have no force to begin with.” That’s our concern. We’re very worried that the private sector is not going to take care of those who don’t have economic power.

**Ms Duff:** Yes, exactly.

**Mr Marchese:** The other point you mention is, “Nothing is committed to by private developers, and the historical record is that they have never provided enough affordable housing, whether rent controls were in place or not.”

**Ms Duff:** Yes, that’s my understanding.

**Mr Marchese:** A number of people are saying the same thing. Mr Lampert, the person they’ve commissioned to do a report for the government, says as much. He says rent controls are not going to do it, although they’re decontrolling. Mr Lampert also says that if we’re going to get the construction going, we’re going to have to give a whole list of concessions to the private sector for them to build.

**Ms Duff:** We’re going to have to deregulate everything. If you ask me, that’s what they want.

**Mr Marchese:** There’s a question I wanted to ask. Do you think it’s fair for the private sector to say: “Don’t build cooperative housing, non-profit housing, because that’s just a drain on the public and the taxpayer. Let us build, but give us tax concessions to do so”? Do you think that’s a fair thing?

**Ms Duff:** No, I do not, and it’s not the only contradiction in the group of landlords that come within the definition of big business. I think there are small landlords who are good landlords. We can’t tar all landlords with the same brush, but what I am very much opposed to, and this present government appears to be deeply in favour of encouraging, is the big business approach. I think housing is as essential as three meals a day, free schooling, good health care. It’s a necessity.

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**Mr Marchese:** I have to tell you that some of the developers who have come here, and landlords, don’t

share the view you’ve expressed that I wholeheartedly support, and that is, security of home should be the principle that takes precedence over profit and property rights and all other considerations. I share that feeling because I think by and large we have to look after people, especially those who don’t have the means to be able to protect themselves. Security for them is one of the most important principles that we should be worried about as humans. I share that view very strongly.

**Ms Duff:** Yes, well, I’m very glad you do.

**Mr Marchese:** The capital reserve fund is something we need to look at because we have known for a long time that although landlords have been getting money to do the repairs over the last 20 years, many have said, “We don’t know what moneys they’ve spent for capital repairs.” Now the Conservative government is saying: “My God, we have a crisis. So we need to get rid of rent control to fix that crisis, because we’ve got a \$10-billion problem that we have to fix.”

Do you think that getting rid of rent control is going to fix the \$10-billion problem we’re going to have in the future because some landlord didn’t do the repairs?

**Ms Duff:** No, I certainly don’t and I’m very surprised that an issue that’s as important to the economy of Ontario per se as well as to the wellbeing of the people who live here — nothing I’ve seen from the government indicates that there probably are possibilities for paying down the debt without going through all this, without shredding people’s lives. I think there is a whole range of different kinds of legal instruments that the private market uses when they’re in a situation of considerable debt and you don’t hear of any alternatives being put forward by the government.

**Mr Hardeman:** Thank you, Ms Duff, for your presentation. I’ve a couple of questions: first of all, on the numbers you’ve provided in the cost of subsidization, the \$190 a month to subsidize a publicly owned housing unit and \$390 to subsidize a tenant living in private accommodations.

**Ms Duff:** These were averages. I had these figures. When I became concerned with this I made it my business to search out some reports on these issues and I’ve read reports from Metro Housing, Metro social services, Toronto Housing, the Lampert report and this document of course, *How to Protect the Tenant*, and a number of other ones. To tell you the truth, I’m not precisely certain which authority produced these figures, but I have read them. I copied them, literally. They came from a source that appeared authoritative at the time.

**Mr Hardeman:** Again, I do have some concern with the accuracy of those two numbers. Any numbers I’ve seen, the difference was not in that direction, in that way.

**Ms Duff:** I see.

**Mr Hardeman:** The other ones, I think, are right or they may be proportionately right as the percentage of money that’s spent on public housing, but I think of course we have to be a little careful that this also relates to how many people live in the public housing as opposed to the private housing sector.

**Ms Duff:** Every figure seems to be contradicted by every other figure.

**Mr Hardeman:** The other question — I find it interesting — it’s on page 3 of your presentation,



"Municipalities should not have the right to prohibit granny flats." Obviously that relates to recently passed legislation by the province —

**Ms Duff:** Yes, I took these bits out because they seemed to be wrong —

**Ms Duff:** Yes.

**Mr Hardeman:** But you do continue on and say: "These decisions should be made on a neighbourhood basis. Granny flats are...welcomed in some areas."

**Mr Hardeman:** Would you not see then that this should be a decision made by local municipalities?

**Ms Duff:** No, I think a municipality is too large if you're talking about Toronto or North York, and I realize that this would be everyone's immediate reaction to this. There isn't any mechanism politically at present, is there, to decide things on a neighbourhood basis? Say in Toronto you made it ward by ward. Within a large city you will find wards or neighbourhoods where they're welcome and wards where they're not. I don't think that decision should be up to the municipalities so much as the —

**Mr Hardeman:** So from your suggestion then the direction that the previous legislation went, taking it from the provincial basis down to the local basis is a step in the right direction —

**Ms Duff:** But it doesn't go quite far enough.

**Mr Hardeman:** — but it should be even more defined to local decisions?

**Ms Duff:** Yes, I think so.

**Mr Hardeman:** Another question. On the new construction you suggested that more entities should be included in any new construction for housing developments, such as we should include mud-rooms and professionally staffed day care centres. Do you not have a concern with doing that? I recognize that those would be valuable entities in any type of residential development. Do you not have a concern that that, in fact, would increase the price of that development again to make it unaffordable for the very people who need those entities?

**Ms Duff:** It would cost more. I don't know that it would cost very much more in terms of the structure, but there would have to be some way, if necessary, to support those who require support in paying a fee for a day care centre and so on. I'm not sure that I would incorporate that into the rent of every tenant, because not every household would take advantage of a day care centre.

**Mr Hardeman:** My concern would be that if that was included in the building, it would become unaffordable for many more people, because I guess it is accepted —

**Ms Duff:** My guess would be that it would more affordable over all.

**Mr Hardeman:** — that the cost of the entities has to be included in the rent. So if you had all these entities it would become prohibitive for the very people who would require the facilities for their children.

**Ms Duff:** I don't think it would be anything like prohibitive if you're simply converting a couple of apartments.

**Mr Curling:** I'll just make a quick comment. My colleague here wanted to ask some questions and maybe make some comments himself, of course. I just want to

comment about the granny flats, because I was the minister who introduced granny flats and I fully support what you're saying that it should be reduced down to a community, to an area, because not the entire municipality would cooperate on that. The fact is that the granny flats were really greatly welcomed and then we started playing political football with it afterwards.

The last quick comment is that we always believe that this tenant protection package, some of the Conservative people say, "It's just an urban little area, it's a Toronto issue," but it's right across the province that it has an impact. So I'm glad that you mentioned that.

**Mr Sergio:** Thank you very much, Ms Duff, for coming down and speaking to us. Before the election last year, the now Premier said that any change to the Landlord and Tenant Act and tenant protection whatever, rent control and so forth, would have to result in a rent decrease.

**Ms Duff:** Decrease?

**Mr Sergio:** Decrease. All right? We are seeing now that this is not the case.

**Ms Duff:** Yes, very clearly.

**Mr Sergio:** The first objective of the proposed reform says this: "Protect tenants from unfair and high rent increases." If rent control is gone, who is going to say what rent hike is unfair? Certainly not the government, because it would have abdicated its responsibility to the free market and they can raise the monthly rent to whatever amount they want. Then it goes on to say, "harassment and unjust evictions and to provide strong security of tenure."

Knowing what you know, because I've been listening to your presentation, how do you think this new proposed legislation — and it's only proposed legislation, and as we hear also from our colleagues on the government side, we hope that perhaps at the end the minister and the Premier will have a second thought and they will withdraw this particular piece of legislation. My feeling is that they won't, but let's hope they will if they listen to people such as yourself. How do you view this legislation with respect to the type of protection that the legislation is proposing now?

**Ms Duff:** I found very little in here that it seems to me is devoted to protecting a tenant. Put it this way: Most foxes I know disguise themselves as a rooster or a hen before they advance on their market objective, but this legislation doesn't. It seems to me to have been written by big business landlords and it emphasizes the specifics of landlord-tenant problems at the expense of the overall situation, which I think the Legislature must concern itself with, which is the social consequences and the possibility of extreme damage to some people in Ontario.

**The Chair:** Thank you, Ms Duff. We appreciate your attendance and your input into our process.

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#### YORK REGION COALITION FOR SOCIAL JUSTICE

**The Chair:** Our next presenter represents York Region Coalition for Social Justice, Sharon Matthews, Dennis Bailey and Lee Angus. Good afternoon. Welcome to our committee. The floor is yours.



**Ms Sharon Matthews:** My name is Sharon Matthews. I have with me Dennis Bailey and Lee Angus. We are pleased to be able to participate in these hearings on the discussion paper concerning the future of tenant protection legislation in Ontario.

The York Region Coalition for Social Justice is a coalition of individuals and organizations living and working in York region. Many of our members are tenants, but some are small landlords I might add, including myself. Others work in the court system and have an intimate knowledge of how it deals with landlord and tenant issues. Many of our members have experience with the rent control system in Ontario. Our reason for being here arises from our concern for the wellbeing of our neighbours, particularly those who, because of economic disadvantage, lack the opportunity to influence the public policy debates that mould our society.

All three of us will be participating in our presentation and I'd ask Lee to continue.

**Ms Lee Angus:** York region is a conglomeration of nine diverse municipalities that range from the very urban, such as Markham and Vaughan, to the semi-rural, such as Georgina and East Gwillimbury.

In population terms York region is one of the fastest-growing areas in Canada. However, with a population of over 570,000 people, it still has only 4,700 private rental units, an extremely small per capita figure and one that suggests an obvious imbalance in growth.

Given its population growth and lack of rental accommodation, it is not surprising to find that it has also had relatively low vacancy rates in its private residential rental market: 0.8% in April 1995 and 1.6% in the most recent survey in October 1995. CMHC attributes the apparent increase to normal fluctuations in a small sample size rather than to real change. The vacancy rate for the affordable portion of the market is undoubtedly lower.

When York's only emergency shelter for families opened a little over a year ago, they anticipated a maximum stay of three to four weeks. Finding affordable accommodation for their residents to move to has been their largest problem, however, and has forced them to permit stays of up to eight weeks. This has happened despite the fact that people come to the shelter only after they have exhausted the ability of their family, friends and churches to provide temporary accommodation. The shelter insists that residents conduct an active search and assists them in that, yet families have had to leave the area to find affordable accommodation.

A low rental vacancy rate is of concern not merely to the individuals directly affected; employers in the retail, service, hospitality, transportation and small manufacturing sectors are particularly reliant upon the availability of lower-waged employees. A worker's inability to find affordable accommodation is also a problem for the companies that employ or seek to employ them and therefore a problem for our overall economy.

Studies of employers in the region have recorded difficulties recruiting employees, particularly for lower-paying jobs but even for those paying as much as \$55,000 per year, as a consequence of this shortage of affordable rental accommodation.

Anything that tends to reduce the availability of affordable rental accommodation will exacerbate this problem and will therefore be economically counter-productive. A stock of affordable rental housing is as much an economic asset as infrastructure or the proper regulatory environment.

Unfortunately Ontario's present government has already taken steps that have reduced or will reduce the supply of affordable rental housing. We refer specifically to the cancellation of funding for private non-profit housing and the elimination, by the Land Use Planning and Protection Act, of the ability of some homeowners to create accessory apartments.

New Directions proposes to continue reducing the housing stock by eliminating the Rental Housing Protection Act controls on the conversion of residential rental properties. The impact of this will be overwhelmingly in the more affordable end of the market.

It's obvious that, all other things being equal, the lower the rent yielded by a property, the more incentive the landlord has to convert it to some other use. It will not be the well-off tenant of the \$300,000 single-family home in a subdivision in Richmond Hill who finds himself or herself evicted, but the tenant of the \$750-per-month, one-bedroom apartment in a residential-commercial zone in downtown Aurora, Keswick or Thornhill.

Even while reducing the supply of lower-priced rental accommodation, this government has implemented policies that have increased the demand for it. Cutting most social assistance rates 21.6% in October 1995 was one sure measure. Since the vast majority of social assistance recipients rent in the private market, the demand for rent-geared-to-income housing has significantly increased.

One major provider of subsidized housing in York region has seen an increase of approximately 8% in its waiting list in the last year. At the same time the rate at which people have left such housing has dropped. Officials now express a feeling of guilt at even handing out applications, knowing the false hope they are creating. Prospective applicants frequently do not fill out an application once they have been told of the likely waiting period. Many of York region's existing private non-profit housing corporations have closed their waiting lists and refuse to take applications, admitting openly that the waiting period can be from three to five years.

Reducing the supply of basic rental accommodation while increasing the need for it is a classic and certain economic prescription for price and rent increases. Removing unit rent controls would allow this upward pressure on primarily low-end rents to be released, with the result that tenants at the bottom end of the economic scale will be hurt the most. Seniors, the disabled, single parents and low-income workers will be the victims of this policy.

It is somewhat misleading for the government to proclaim that it's maintaining rent controls by protecting sitting tenants of existing buildings. "Hovering" tenants might be a better term, especially in growing urban areas like York region where the population is relatively mobile. As the study done for the government by Greg Lampert illustrated, between 64% and 86% of all tenants move in a five-year period.



Mobility is in itself a desirable economic feature. In the economic realities we face today, do we want to adopt a policy that discourages people from moving, for example, to pursue job opportunities, further training or education? Are not such moves exactly the sort we as a society want to encourage the underemployed and low-income people to make? Yet the New Directions proposal for rent controls discourages such mobility by attaching a significant cost to the giving up of an affordable rental unit. Such a scheme will not prevent people making such moves, but it will be a determinative factor in some cases. Unfortunately its impact will be greatest upon the mobility of low-income people who, because of more limited job options, are exactly the ones in need of the greatest mobility.

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**Mr Dennis Bailey:** Without unit rent controls, the prospect of obtaining higher rent from a new tenant will be an irresistible incentive for many landlords. The use of coercive tactics against tenants will increase. Obviously tenants in the lowest-priced accommodation, who are generally the least able to afford higher rents, will be the prime targets.

Tactics will include deliberate non-repair, intimidation and eviction based on an ostensible need for personal use. The New Directions speculation that an anti-harassment enforcement unit, higher fines and greater municipal powers will effectively curtail such abuses can be reasonably regarded with some suspicion by tenants.

In York region tenants who are articulate and persistent enough to lay private charges get virtually no guidance on how to proceed. Charges against landlords have been dismissed simply because no one informed the complainants when to be in court. There is no compensation for complainants who take the time to attend court in lieu of a provincial prosecutor, and the fines are almost always token.

Offences against tenants go largely unpunished at present because most police forces don't lay such charges as a matter of unwritten policy, nor do they routinely provide such evidence to the crown attorney's office. That could be easily rectified by a directive from the Solicitor General. Given that local police forces are closest to the scene and already expert investigators, how will the new and presumably more centralized New Directions anti-harassment enforcement unit conduct investigations and initiate prosecutions, throughout the province, more successfully? What sort of relief will be possible, fast-tracked or otherwise? In what form will relief be pursued? Will the unit complete the prosecution or merely initiate it, as the document indicates?

The almost total lack of detail about such a key element for tenants reveals much about the lack of seriousness with which this discussion paper really considers tenant protection.

The proposal to increase the powers but notably not the funding of municipalities to deal with property standards violations is a classic example of buck-passing. The major cost to municipalities in enforcing their property standards bylaws is for personnel. In York region competition for resources at the municipal level means that in almost every case property standards

inspectors wear other hats. Recent reductions in transfer payments from the province will not encourage municipalities to hire more inspectors, in the absence of which the proposed increase in powers will not have the effect of adequately dealing with tenants' maintenance concerns.

We are deeply concerned that the real thrust of this contemplated legislation has little to do with protecting tenants. The government has taken the unusual step of holding province-wide hearings on this discussion paper rather than a bill. We are understandably suspicious that hearings on the actual bill containing the detail that is conspicuous by its absence in this paper will be abbreviated and the government will claim it has already adequately consulted the people to justify that.

There is a theory that if you assert something once, some people might believe it; twice and most people will believe it; three times and no one will doubt it. The discussion paper has little to offer in terms of real tenant protection, and regardless of how many times you proclaim that as its purpose, no tenant in York region, nor elsewhere in Ontario, will believe that.

We'd be pleased to take any questions that you have.

**Mr Wettlaufer:** Thank you for your presentation today. I was very interested in your remarks regarding the shortage of housing and shelter; 4,700 units out of a population of 570,000 doesn't seem like a whole lot. Given that the government has a deficit of \$8 billion a year, given that we're paying interest on the debt to the tune of \$8-billion-plus per year, we are severely handicapped by how much we can put into many programs that we would like to put into programs.

If you took your daughter or your son to a store and he or she needed an item of clothing for 20 bucks but you only had \$15, that's all you could afford to pay. That is the problem we face as a government, albeit much bigger dollars, much different needs. What would you suggest, given that we have such a shortage of funds? How do we do this? We would like some recommendations.

**Mr Bailey:** First off, the rent control program is not one I would typify as a major expenditure in terms of what it saves tenants in this province and the degree to which it makes accommodation affordable that otherwise would not be affordable. If you were to turn around and try to do the same thing by means of a shelter supplement program, I think you'd find that the cost would be astronomical. That's why the rent control system in Ontario works cheaply, relatively speaking, compared to the options.

**Mr Curling:** I want to commend you for the presentation. It's very focused and direct in some respect. As a matter of fact, I just want to comment on what the government side was saying. They said, "How are you facing this dilemma if you have a great deficit on your hands and are paying all this interest on it?" I would say first don't take a tax cut. If you didn't take a tax cut, you would have some of that money right now to pay off the debt.

However, one thing that you focused on so well was, and many people have commented on that, "The vacancy rate for the affordable portion of the market is undoubtedly lower" than we saw. We say there's a vacancy rate of 0.8%, and no one says that within that, on the



affordable end, it is much worse because we throw everything in that component.

Then you said that many people on the waiting list for Ontario Housing, or what have you, take their name off the list because they feel it's a waste of time to drive up their hopes for three or four years' wait.

You also mentioned the contribution. The government sometimes contributed to that disastrous situation in cancelling out non-profit housing, cutting back 22% on the most vulnerable people, creating the demand that is just a disaster, turning around and creating that crisis, then saying to us, "I think the private sector will bail us out on this."

I'm moved to speak a little on this because you're the last presenter we have in Toronto, and some things we have been hearing moved me and many other people here to tears. Do you think it would be a good idea if this committee would visit some of those accommodations that are around to see the kinds of situations people are living in and find out at first hand how tenants are wrestling with the issues each day? Would that be helpful at all to this committee?

**Mr Bailey:** I think we're all strong advocates of education, and that would probably serve an educational purpose. We would support that.

**Mr Marchese:** Thank you very much for your submission. Given what some government members have been saying in the last week, it leads me to believe that we have a housing problem and we're going to have a housing crisis in the next short while. I'll explain why. First of all the government has stopped building cooperative and non-profit housing. Second, they are proposing to eliminate the Rental Housing Protection Act, which means rental buildings are likely to be converted, and the condominium people are very worried about that. They already have a glut and it will become seriously worse once they do this.

The private sector says: "Thanks for getting rid of rent control. We like that because it will give us a few more dollars, but we're not going to build unless you give us a few other things." The government says: "Oh, we've got a problem. We have a deficit and we're not about to give them the whole store. We're going to get rid of rent control but we're not about to give you all the other tax concessions, because we're strapped. We're poor." It seems to me that rent control is a shift of money from the poor tenant to the landlord, who's not going to build, and every study says that.

In the context I've given you, don't you think we're going to have a housing crisis where the poor will not be housed?

**Ms Angus:** The poor are going to be on the street or in other places. They're already there and are going to be there more and more as we move in the direction that the current government is going.

1700

**The Chair:** Thank you, folks. We appreciate your input into our discussions, our deliberations and being with us this evening.

Mr Curling has a motion that he wants to put forward.

**Mr Curling:** Whereas the Conservative government has produced no research to support its claims that as a

result of their new plan, tenants will not be subject to evictions and massive rent increases; landlords and developers will build new affordable rental units; significant amounts of existing apartments will not be demolished or converted to condominiums;

And the only publicly available report prepared for the government is the Lampert report prepared for the Ministry of Municipal Affairs and Housing by Greg Lampert;

I move that the committee request that Greg Lampert, economic consultant, appear before the committee to allow members to probe him on his findings and recommendations.

If the committee is to prepare the best possible report, it will be necessary for Mr Lampert to appear before members begin discussions on the preparation of a final report, and giving each party 30 minutes to question Mr Lampert.

**The Chair:** If I may just comment on that, we initially approved a system for this committee whereby, and I'll quote, "Authorization is given to the clerk, in consultation with the Chair and/or subcommittee, to deal with any outstanding matters that may arise concerning public hearings, scheduling, travel arrangements and report writing." On that basis I would suggest that the subcommittee meet to discuss this particular issue and make a decision at that level.

We stand adjourned.

**Mr Marchese:** Mr Chair, you shouldn't do that.

**Mr Curling:** You can't do that.

**Mr Tony Silipo (Dovercourt):** You've got a motion in front of you. You can't just adjourn.

**The Chair:** Based on a previous motion, I've decided that the subcommittee is empowered to deal with the motion and that's the way we're going to do it.

The meeting is adjourned.

**Mr Silipo:** You can't adjourn the committee. It's the second time you've done this.

**Mr Marchese:** Can I ask the clerk to comment on this, please?

**Mr Curling:** We don't have to have a subcommittee to deal with this. The subcommittee is made up of us.

**Mr Marchese:** This type of motion is not complicated, really. It's an easy motion the committee needs to deal with and can do it very quickly. You can either decide you don't want to invite him or you do.

I support the motion because I think having Mr Lampert here would answer a lot of questions. We refer to his report on a regular basis, not only we here and the government members but many of the public who come here to deputize refer to his report. I think it would be very useful to find the time, and perhaps the subcommittee can look at when we might find the time for that. It might be a half-hour, it might be whatever time we can find, but I really believe it would be useful to have Mr Lampert appear before this committee. I would urge the government members to support that and for the subcommittee to find the time for us to do that.

**The Chair:** The problem is, there is no time. It has been allocated and the decision's been made.

**Mr Marchese:** Let's get the subcommittee to look at that.

**The Chair:** That's what I've suggested.



**Mr Marchese:** But if we approve this, then the subcommittee will find the appropriate time.

**Mr Hardeman:** Mr Chairman, on a point of order: I would suggest the Chairman used wording that was maybe not construed to be what it should be. I would gather that when the Chairman ruled that this was going to a subcommittee, he ruled the motion out of order, and I don't believe it should have any further debate at that point.

**The Chair:** While I did request that it go to the subcommittee, I don't have the right to adjourn the meeting. However, Mr Marchese is also suggesting that we go to the subcommittee with it.

**Mr Marchese:** Quite differently. I suggested that if we as a group agree and hopefully the government members agree, we then refer that to the subcommittee to look at when we might find the time to do this; in other words, this whole group here of all three parties saying, "Yes, that sounds like a good idea; let's find the time," and we'll get the subcommittee to agree.

**The Chair:** Are the members ready to vote on the issue?

**Mr Marchese:** I'd like to hear from the government members.

**Mr Wettlaufer:** No, I'm not. If the motion does not conform to the rules that were set up initially, then it does not come to a vote at this committee.

**Mr Marchese:** No such thing.

**The Chair:** We do have to deal with the motion. Are the members prepared to vote on the motion?

**Mr Marchese:** A recorded vote.

#### Ayes

Curling, Marchese, Sergio.

#### Nays

Bassett, Boushy, Danford, Hardeman, Maves, Wettlaufer.

**The Chair:** The motion is defeated.

**Mr Hardeman:** Mr Chairman, on a point of order: I wish to register an objection. I don't believe you can call the vote without giving people the opportunity to debate the motion.

**The Chair:** The vote was called and the motion was defeated. We stand adjourned until Monday in Thunder Bay.

*The committee adjourned at 1706.*







## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
\*Mr Ernie Hardeman (Oxford PC)  
\*Mr Rosario Marchese (Fort York ND)  
\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Ms Isabel Bassett (St Andrew-St Patrick PC) for Mr Flaherty  
Mr David Boushy (Sarnia PC) for Mr Stewart  
Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello  
Mr Wayne Wettlaufer (Kitchener PC) for Mr Young

### **Also taking part / Autres participants et participantes:**

Mr Jim Brown (Scarborough West / -Ouest PC)  
Mr Tony Silipo (Dovercourt ND)  
Mr David Tilson (Dufferin-Peel PC)

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell, research officer, Legislative Research Service



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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 26 August 1996

# Journal des débats (Hansard)

Lundi 26 août 1996

## Standing committee on general government

Rent control

## Comité permanent des affaires gouvernementales

Réglementation des loyers d'habitation

Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 26 August 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 26 août 1996

*The committee met at 0902 in the Airline Motor Hotel, Thunder Bay.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to our committee hearings on proposed changes to the rent control legislation in the province of Ontario. We're delighted to be here in Thunder Bay on a beautiful summer morning.

I must make a comment about the dress of some of our people, which will get more outlandish probably when a couple more of them arrive, but Air Ontario, in its inimitable fashion, lost some of the luggage last night — on a charter, no less. Somebody said it had something to do with the fact that the pilot was a lady, but I'm sure that person is —

**Mrs Lyn McLeod (Fort William):** Oh, bad start, Jack.

**The Chair:** So we apologize for that. They will get dressed up more appropriately as the day goes on.

## UNITED TENANTS OF ONTARIO

**The Chair:** We're here to hear what some people in Thunder Bay have to say about the proposed changes and our first group presenting this morning is Gerry Kucherka, representing the United Tenants of Ontario. You have 20 minutes to use whatever way you see fit. Should you allow some time for questions at the end, we rotate the questions and we would begin with the official opposition, the Liberals. The floor is yours, sir.

**Mr Gerry Kucherka:** United Tenants of Ontario is one of two bodies that have over the past few years represented tenants in Ontario. Our basic philosophy or basic values are that every individual in Ontario has a right to affordable and safe housing. We see the dismantling of the current protections as being a direct threat to that value and have grave concerns for the future of a lot of people renting in Ontario at this time.

In looking over the information over the last few days to see what I was going to say today, I decided to come from strictly a value base and ignore market arguments about what will work and what will not work because my qualifications in economics are restricted to graduate school. When I was there, they told me that economics was more of a descriptive science than a predictive one, so I'm going to leave that stuff alone and leave it for you guys.

Policy is value driven. There's been a dramatic shift in those values recently and it's being reflected in statements being made in the press and changes being made

to other pieces of legislation in the province. The situation for renters in Ontario is no different.

This is nowhere more evident than in the statements made during a recent meeting with the Minister of Municipal Affairs and Housing. Our group met with the Minister of Housing and he made a couple of statements which caused us some grave concern, to say the least.

One of the statements he made was that his knowledge of housing can fit on the head of a pin and leave room for the Lord's Prayer. Some people think that might be generous. The other statement he made was that the province is getting out of the business of subsidizing ghettos. Both these statements are completely opposite to the values that we have.

I said earlier that there have been two bodies in the province representing tenants. That was UTOO, and the other one used to be the province of Ontario. Now there is just UTOO. The province is helping us out by defunding us and we're in the midst of surrendering our charter, so within the next month or two there will be no bodies provincially representing tenants. Where this is going to leave people as they try to find affordable safe housing I don't know.

Thunder Bay has roughly a 6% vacancy rate. At this time it's fluctuating and it's been like that for quite some time. That vacancy rate has not produced a reduction in rents. The rents have stayed roughly at the same spot. So it can only be anticipated that if rent control is removed, the rents will go up rather than follow supply and demand.

This is causing direct human suffering for people struggling under restraints in other areas. Children are going to be facing reduced food. Shelter is going to be a problem. What the final outcome will be our organization isn't sure, other than that we feel that homelessness is going to be on the increase and that people are going to be compromising themselves in where they live simply to have a place to live.

We produce a provincial newsletter and we'd requested people to send in some information, some letters about how they felt about the changes that are happening or believed to be happening. One young woman sent in a letter and I'd like to take a moment just to read it. She's entitled it, "A Lot has Changed."

"A lot has changed over the last few months. I've never felt so hopeless. I can't seem to even drag myself to school any more. I need to keep on trying for the kids, but I don't know how. My benefits have been cut and there isn't enough to go around. I'm going to be thrown out of my apartment after Christmas. I just can't afford it any more. Where am I going to go? Does anyone care?"



My worker told me that she knows that it isn't fair, but there isn't anything she can do. I don't understand.

"Neighbours who used to be friendly seem to just look down on me now. 'Get a job,' some of them say. Where? I don't know where I'm going to go. I always followed the rules. It was important to me. My grandma raised me and taught me that the most important thing was to keep your head high and to be honest and kind to others. I have tried, but I stole yesterday — food. When I got it home, I ate it as fast as I could and after I threw up, Jennifer asked me what was wrong and I yelled at her and then I cried.

"I've been doing a lot of crying. I don't know how to get myself together. When you asked me to write something for your newsletter, you probably expected something different. I want to know how you are going to help me. I already know that things are changing, I'm living them. I don't need talk, I don't need sympathy; I need a way out. What are you going to do? I can't wait much longer."

I guess from UTOO's perspective, what are you going to do? Are you going to be putting more people out on the streets? Are you going to be arguing the market theory to justify suffering, or is it going to be another case where people are just going to hurt?

That's about as simple as I can keep it. I can argue around in circles on values for another five or 10 minutes. I think that sums up our position. If anybody has questions, they can ask questions.

0910

**Mrs McLeod:** Maybe the first question in Thunder Bay — as people come into this community or look at this community, they see rental vacancy rates in the order of about 6%. As vacancy rates across the province go, you'd look at Thunder Bay and say: "They shouldn't really be having any problems. Rent control shouldn't be an issue here. Finding affordable housing shouldn't be an issue here." I think you know it is. I'd like you just to say, with a vacancy rate of 6% in a community, what makes it so hard to still find affordable housing?

**Mr Kucherka:** The vacancy rate is kind of deceiving. The rental market is stratified and a large percentage of those vacancies are at apartments targeting people with higher incomes. For the lower-priced apartments, the vacancy rate most likely is maybe 1% or 2% and it becomes a struggle. Some of the rules around assistance are also a problem in finding an apartment, because it becomes more difficult to find a landlord, at times, willing to accept you. You wind up sometimes falling prey to people who prey on people on assistance, if that makes sense. First and last — these are all obvious things.

The direct answer to your question is that the market is stratified, that vacancies vary at different price ranges in apartments.

**Mrs McLeod:** Does it concern you, then — you may consider this a leading question, but so be it — that with the rent control proposals, people who are now in an apartment which they may feel is affordable, if they leave that apartment and look for another one, could be facing significantly higher rents? Does the market become more stratified?

**Mr Kucherka:** Yes. That's obvious. That's the whole purpose of changing the rent control and the protections,

so that can happen. In that slippage there will be more money, more profits made for the landlords. That's the only purpose I can see to what's happening here.

**Mr Rosario Marchese (Fort York):** Thank you for your presentation. Do you see anything in this so-called Tenant Protection Act that protects tenants?

**Mr Kucherka:** No.

**Mr Marchese:** You asked a very good question, and I paraphrased it, but it's a fair thing when we talk about value and rights. The question that comes to my mind always is, who protects those who are most vulnerable? The point is that affordable housing is a continuing great need. It's not going away. If governments don't worry about them, who's going to worry about them? Do you think the private sector, the market, is going to worry about affordable housing?

**Mr Kucherka:** Traditionally, I don't think the market worries about values too much. No, what has happened is that the organizations which have traditionally protected tenants have been defunded and are falling by the wayside right now. UTOO is a very graphic example. When you have a minister sitting around comparing his knowledge to the head of a pin, it's not very promising for tenants.

**Mr Marchese:** The package, as I read it, offers little for tenants.

**Mr Kucherka:** There are allusions to a conflict resolution process, maybe a secretariat being set up or an organization to look after disputes between tenants and landlords, but there are no specifics. How they would make that workable on a province-wide level, I have no idea. It's not practical.

**Mr Marchese:** The other question that quickly comes to mind is, who's going to help the tenants when they defund organizations like yours and they cut funding for legal aid that helps, ordinarily, people like tenants who are not looking so good in life?

**Mr Kucherka:** That's a good question. They can defund organizations. The people still stick around. We're not dying. We're looking at presently setting up a province-wide landlord registry to register landlords and to have a reference base for tenants, which is a small step. As far as organized representation is concerned, there are some federations in Toronto that will still be around, but for how long I don't know.

**Mr Bart Maves (Niagara Falls):** Good morning, Mr Kucherka. In Toronto last week we had a lot of discussion about the fact that there are good landlords and bad landlords and good tenants and bad tenants. Several witnesses talked about the state of disrepair of a lot of the units. Do you have that problem in Thunder Bay?

**Mr Kucherka:** It varies. In Thunder Bay there are approximately three or four large holding companies that are running some rental units and it is an issue in some of their units in Kenora in particular. In Thunder Bay, it's a hit and miss thing. The rental situation in Thunder Bay is much different than Toronto. There are a lot more standalone apartments, a larger proportion of the renters are in those types of situations. It's not quite the same. I think probably in Toronto they're talking about the public housing situation more than rental units, or am I wrong here?



**Mr Maves:** No, it's usually some of the private sector older buildings, built in the 1960s and 1970s. Actually, I think the public sector buildings are in quite good shape there.

Actually I think 75% of apartments are in units of four or less, or something like that. Even in Toronto, it's quite a large number, but you're right, there are a lot more major apartment complexes in Toronto.

I'm wondering, then, with that in mind, the maintenance provisions we have in the discussion paper, are much tighter on landlords and call for offences. Would they be of much use to the renters in Thunder Bay?

**Mr Kucherka:** Depending on how they're applied and monitored. It's one thing to have guidelines or a structure, and the other thing is how it is going to be monitored and policed. I don't have much faith in that happening. I have to reflect back to what I said earlier. Policy is based on value. If the value isn't there, the policy is not going to go that way. It's simple. It's not magic or anything.

**Mr Ernie Hardeman (Oxford):** Going back to the vacancy rate in Thunder Bay and the fact that such a high vacancy rate does not have the landlords bidding against each other to try and rent their units, it would seem if I owned a building, which I don't, that I would rather have a lower rent than no rent at all. It would seem a competitive edge there. Have you got any idea in statistics how many of your units in Thunder Bay now are actually at maximum allowable market rent?

**Mr Kucherka:** No, I don't have that. I was discussing this with someone else recently, and there's an interaction between the market and demand and there are also benefits to having empty units. Empty units can be used as write-offs and can be used to offset money being made in other areas, so it's not strictly supply and demand there. As you're probably aware, business is always looking for that bottom line, and if it's better for you to keep a place open rather than reducing the rent, then you keep it open.

**The Chair:** Thank you, Mr Kucherka. We appreciate your input into our process.

#### THUNDER BAY ACCESS TO PERMANENT HOUSING COMMITTEE— LAKEHEAD SOCIAL PLANNING COUNCIL

**The Chair:** Our next presenter is from the Thunder Bay Access to Permanent Housing Committee of the Lakehead Social Planning Council, Brenda Reimer. Welcome to our committee.

**Ms Reimer:** As indicated, I'm the chairperson of the Thunder Bay Access to Permanent Housing Committee. This committee was formed in 1988 as part of an initiative of the Ministry of Community and Social Services and the Ministry of Housing at that time. Their challenge to communities was to form committees to come up with some creative solutions to find more affordable permanent housing for their citizens.

In Thunder Bay, our committee over the years since 1988 has included citizens concerned about housing, landlords, tenants, people from the various government agencies, service providers and virtually anyone concerned about adequate, accessible, affordable housing.

Our goals are to advocate and lobby for more adequate, accessible and affordable housing; to assist individuals with limited resources to locate permanent, adequate, accessible and affordable housing; to provide public education on affordable housing issues; and to provide a network for those concerned with housing needs and issues.

**0920**

I thank you for the opportunity to participate in this public consultation. My comments will be made in the context of our goals, so I will be looking at the proposed changes as they affect low-income people, those people in our community who are very much in need of housing.

Our first concern is one that I'm sure you've heard from many groups, that the protection of the tenant but not the unit will drive rents up. We don't believe it will solve the housing problems for the people that we work with. In 1990, we did a report to city council. At that time, the vacancy rate in Thunder Bay was 0.9%, and there were 1,377 households on a waiting list for public housing through the Thunder Bay District Housing Authority. That's a fairly combined waiting list. About 57% of the people on that list were classed as being in desperate need or in immediate need of housing.

Today we have a 6.4% vacancy rate, so one would assume that the number of people on the list for housing through the housing authority would have decreased. In fact, it has risen considerably and now stands at 1,658 households, and 75% of the people on that list are now considered to be in desperate need, whereas in 1990 it was a smaller list and only 57%. So despite the higher vacancy rate, the vacancies are not at the affordable end of the scale. These figures, I think, deal with the two aspects of housing; one is supply, but the other is affordability. We have the supply, but it's not affordable for the people who need it.

We feel that there are a number of factors in these proposed changes that particularly will affect low-income people adversely; one of them is that low-income people, because of their circumstances, because of the fact that they are existing on a low income, because many of them have related problems in their lives, statistically move much more often than other people. So their rent is going to be going up much more often, because no longer will the units be protected, but every time they move they will be facing another increase.

A second way in which we feel that low-income people will be perhaps adversely affected by the proposed changes is that presently we're finding that individuals who need to find housing in this community, and who have only a disability allowance or other form of social assistance, cannot find an apartment they can afford. If they're going to live in an apartment, they have to do it by sharing the rent with someone else. Some of our agencies that are helping people move out of institutional situations into the community are using this creative solution of trying to pair two people together so that the rent on a small apartment then becomes affordable.

But with these changes, what will happen if, for one reason or another, that original pairing changes and one tenant moves out? When a new tenant moves in, will their half of the rent then go up? What about the changes



that are being suggested to sublets? If there's a change, will then the landlord say, "No, I agreed to rent to these two people originally, but if there's a change, I'm going to have some control over the sublet"? It's very difficult, as it is, to find housing for people or to help people find their housing. The kind of people I'm talking about here would be people with developmental disabilities, for example, moving out of small group homes and into the community. So these proposed changes may create some very difficult situations for low-income people.

You probably also will have heard from other people that we're worried that the proposed changes will put tenants in a very vulnerable situation versus harassment. We're pleased to see that this has been taken into account and measures have been suggested, but harassment is a very grey area, and I think it will be very difficult to determine. Landlords who want to vacate a unit so they can raise the rent on it would be able to find ways of making it very difficult for people to stay without it being able to be proven as being absolute harassment. I think that's a problem.

I think that tenants, particularly low-income tenants, are also often extremely unsure of themselves, extremely unsure of their rights. I think they do now and they would continue to put up with a great many things rather than risk losing the housing they have already or, alternatively, move right out even if they don't have something as good or better to go to rather than try to raise complaints against the landlord and expect that anything will happen about those complaints. In that whole area of the tenant being protected rather than the unit rent being protected, our feeling would be, for the reasons I've outlined, particularly for low-income tenants, this will not serve to be protection for them.

Our second area of concern is property standards, because as we go around the table at our meetings, we become very aware that there's a huge backlog in our municipality, and I expect in other municipalities as well, in being able to keep up with property standards complaints. A second problem here is that more responsibility is going to be given to the municipality, but at the same time municipalities are experiencing considerable cuts to their moneys, so it's expecting them to do more with less. I'm not sure it's realistic. If, as is suggested, landlords don't make repairs and the city comes in and does it and then puts it on the tax bill, will this not go directly back to the tenants, because taxes are covered as part of their rent? That doesn't seem fair. So we have some concerns in that area.

Our next area of concern would be the repeal of the Rental Housing Protection Act. Because a significant number of people on low income are renters, they need decent housing. The realities right now are that they simply don't have the money to meet market value rents, but they still have to live somewhere. It would seem that it's virtually impossible for the private sector to build housing at a cost that they can make a profit on it and still make it affordable to a certain group of people, the people at the lowest end of the income scale. But nevertheless it's not acceptable to have those people simply living on the streets. It's not acceptable to have those people living in emergency shelter type of situations.

Emergency shelters are for emergencies; that's not long-term, affordable housing.

We're concerned that part of the job of government is to make sure there is some kind of housing available to people at the lowest income level. We feel that if the Rental Housing Protection Act is repealed, then there still has to be some other mechanism in place to ensure there is housing for people at the lowest income level.

#### 0930

Many members of the Thunder Bay Access to Permanent Housing Committee serve clients who are in need of supportive or supported housing. We're aware their particular concerns have been forwarded to you in a brief by the Ontario Non-Profit Housing Association. We would like to underscore their request that perhaps a separate section of the Landlord and Tenant Act be developed to address the unique needs of both tenants and landlords in supportive and supported housing situations.

My last point is that on behalf of the Thunder Bay Access to Permanent Housing Committee we request that you look at the proposed changes in the tenant protection package in the context of all the other changes that are being brought about by the present government. There's no doubt, we feel, that if these proposed changes go through, one of the effects will be to drive rents up. In a sense, that is what they're supposed to do to encourage landlords to invest. However, at the next hotel down the road this morning, labour standards, employment standards are under discussion, and one of the results of those discussions or proposed changes is likely to be to drive wages down for people at the lower end of the scale, and perhaps to get rid of the minimum wage altogether.

Hundreds of government and public sector service workers in our community are threatened with job loss or early retirement. People are starting to sell their more expensive homes and move down to something less expensive.

Hospital restructuring has resulted in fewer people being housed in institutions and more people being housed in the community. This trend is going to continue, and these people moving out of institutions do not have the rents to pay rental at the high end of the scale. Some of them are extremely vulnerable people.

We see, for many different reasons, more people having less money available to cover the cost of the housing they need. In many cases, people are paying far more than the 30% of income that is the target figure of what should be paid for rent. We see a housing market that's unable to respond to this need, unable to supply affordable units and still make a profit.

In this context, if you look at this whole wide picture, then I think the proposed changes being discussed do not strike a balance. They may strike a balance in your mind between tenant and landlord, but they do not strike a balance in terms of the needs of the community. They may end up offering high-end renters in Toronto more choice in housing, but they will certainly make it much more difficult for people on moderate or low incomes, including people in need of supportive and supported housing, to find any decent affordable housing at all. Where is the balance for these people and what are their options?



**Mr Marchese:** Ms Reimer, your worries are well founded, in my estimation, and one of the things I try to talk about is giving a wider context of things, which I think you've offered. The problem as I see it is this: The Conservative government says, "We're not going to build housing any more." The kind of housing we built was at the low end — the kinds of worries and concerns you were raising.

The rental housing protection will be a terrible thing, we argue, because it will get rid of rental accommodation. Even the condominium association is worried because there is a glut now and they're worried a lot of that stuff will become condominiums. So they're concerned about that.

If the private sector as well is not building — they've had a year and over the year they're not building in this climate because they want a big, long red carpet to build — what will happen to the needy people you just talked about, those at the low end?

**Ms Reimer:** That's exactly my concern.

**Mr Marchese:** The other concern you talked about, harassment, is very difficult. Although they've strengthened that whole area of harassment, your point is well taken. It's a grey area and most people will talk about, "How do you prove that?" Although it appears they're getting protection from that, it's a very difficult thing to prove. I want to agree with your statement, and you have a lot more experience than I do, and we're worried about the uneven relationship between tenant and landlord.

**Mr Hardeman:** Thank you for your presentation. I still have a little question on the vacancy rate. If we go back in time, rent control was brought in because there was a very low vacancy rate in the province and landlords seemed to have the ability to charge whatever they felt was an appropriate return on their investment, because of the inability to find other accommodations. It's been in for a number of years. The vacancy rate in those areas we're having the problem with is still very low, so the system hasn't been working. If that's the case, I find it hard to understand why, in an area where we have over 6% vacancy rate, controlling the top of the system, or the allowable rent, would have an impact. It seems to me we should still have a market-driven rental policy in areas such as this.

Your presentation deals with the opposite to that, that that's not the case, that we have an inability to pay rather than a lack of accommodation. Do you think it's appropriate the housing industry should cover that inability to pay, that in fact we should have a system where the housing has to be provided at a level people can afford as opposed to having another way of dealing with that shortcoming?

**Ms Reimer:** I believe there has to be housing that's available, and adequate housing that's available at all levels. I agree with you that this makes a difficult situation. I don't expect somebody who builds apartment buildings to make a profit to build a new apartment building here and then rent it out at rents that are not going to give them that profit. But I would also argue that the government of the province has a responsibility to those people who do not have enough income to pay

for units in that new apartment building to be able to find adequate, decent housing that's fit to live in at some level within the community. I think that at the present time this is becoming more and more difficult.

Ten years ago, the vacancy rate in Thunder Bay was almost zero. It had been that way historically for a long time. It's only in recent years that condominiums have become popular and more of those have been built and some new rental units have gone up. We've historically been a home ownership community at a higher than average level as opposed to renters. This is something else that's changed over the last five or six years.

**Mrs McLeod:** I was caught up with your response to Mr Hardeman, which I think underscores what you said in your presentation, which is it's a combination of initiatives that are compounding the problem we're seeing right now. But I want to come back to something else, a point you made in your presentation, and that was the fact that there are 1,658 families, households on a waiting list for housing that they can afford right now even though we have a vacancy rate of 6.5%. It seems to me that's where the theory that a vacancy rate based on market conditions is going to solve all the housing problems — the waiting list, as you said, has gone to a higher level even though the vacancy rate is higher. That must be because of what our first presenter was saying of the stratified nature of the market here, that it's high-end rental housing that's being built —

**Ms Reimer:** Exactly.

**Mrs McLeod:** — that it's not low-end housing. You said 75% of those 1,600-plus households were in desperate situations. Could you say where they are housed now.

**Ms Reimer:** I think many of them you would find are housed in overcrowded conditions where you'll have two families sharing a house that's really only suitable for one, or an apartment, as the case may be. You have families housed inappropriately, say where there's been marriage breakup and either the husband or wife and the small children will go back and be living in the parents' basement, which really isn't satisfactory for either generation. You have people who are moving from one room to another at a fairly frequent rate; certainly single people living in hotels that are not really set up for adequate, permanent housing. I think there is a whole variety of things.

I think there are other people who will be making presentations today who can answer that even better than I can, but I know there are many rental situations in Thunder Bay where when people go in they're shocked that anybody can live in these conditions.

**The Chair:** Thank you, Ms Reimer. We appreciate your input this morning into our deliberations.

0940

VERNON KIMBALL

**The Chair:** Our next presenter is Vern Kimball. Good morning, Mr Kimball. Welcome to our hearings.

**Mr Vernon Kimball:** I'm not one for speaking in front of people, and another thing, too, I'm supposed to be on my holidays but this is very important to me so I'm here doing this presentation. I've circulated to you all a piece of paper outlining some of what I have to say.



Good morning ladies and gentlemen of the standing committee on general government and members of the audience. My name is Vernon Kimball and I work as the aboriginal healing and wellness coordinator for the Thunder Bay Indian Friendship Centre. The people we service live in the city of Thunder Bay and are a very transient people. They come from reserves and remote communities. It has been estimated that the native population in Thunder Bay is as high as 12,000.

I would like to inform the members of the standing committee on general government of three items about this presentation and the presenter. First, this presentation will not dwell on or give you dry statistics, as that kind of information is readily available. Second, I would like to indicate at this point that although I work for the Thunder Bay Indian Friendship Centre, the views I express in this presentation are my own. Third, because this proposed rent control restructuring will affect all tenants, I will speak out of concern for all that will be affected, not just for my nation but for all nations, be they family, single-parent family, elderly, disabled or the destitute. With this in mind, I sincerely ask you to listen to what I have to say.

The current provincial government was elected on its platform of the Common Sense Revolution. So far there have been cuts that have affected the social structure developed by previous governments. The cuts intended to alleviate the debt have had more of an impact on the already impoverished people of this province as opposed to the large business interests. When we consider the cuts made to the social welfare program, we must consider the impact that those cuts have on those who are collecting welfare. After all, the majority of the people on welfare are living in rental units. Yes, it can be argued that there are those who are taking advantage of the welfare system, but to punish all to save dollars in order to reduce the deficit is a method that defies one's common sense.

Consider the cuts this government has done since it has come into power. Front-line workers have only to look around to know the impact of the cutbacks made by this government and what these cutbacks have done to the people. Suffering and undue hardship is the end result. People in larger numbers are trying to access services that can no longer be provided because of cutbacks to programs that were created to service people in need of assistance.

Now this government wants to take away rent control measures. Rent control measures protect those on fixed incomes from facing rent increases and harassment from rental unit owners. When these rent control measures are taken away or altered to be of benefit to the owners of rental units, it does not take much common sense to draw a conclusion about what will happen if the tenant moves out. Greed will step in and the rent will increase. When the rent is thus increased, the next tenant will end up paying a higher rent, and when they are evicted for some rudimentary reason, rents will likely be increased again. This process will continue for each successive tenant. After all, rental unit owners are in the business to make as much money as is possible. That is what capitalism is basically about.

When one considers that in this country of wealth there are men, women, children and, yes, even babies who are

hungry; that there are women and children who are joining in throngs those men living on the streets — we are talking homeless families here, and one has to only visit the streets of Toronto or any large urban setting to see that this is so, that there are people of all colours, from all walks of life, including the elderly, people with disabilities, people with needs, people who at one time had jobs and a source of income, people who are now on a fixed income and in many cases no source of income, who are asking for assistance, and that organizations and municipalities are helpless to help them, we have to come to the realization that something is amiss. Something is terribly wrong when we in this country of wealth allow people to be stranded and their needs avoided.

According to Maslow's hierarchy of needs, it is a given that in order for a person to grow they need to have their basic needs met. One needs to have food, one needs to have warmth and one needs to have shelter, basic needs that every Canadian should have access to without denial. One may ask, what has all this to do with rent control?

A basic need is in potential jeopardy from this government's proposed rent control changes. Need for shelter, especially in these cold Canadian winters, is at risk of being taken away. When this government takes away structured rent control measures, it will be leaving those unfortunate poor people at the mercy of a market driven by the almighty dollar. We have resources in this community of Thunder Bay, but these resources are being stretched to the limit. When rent control measures are taken away, families will be trying to access these resources, and then criteria will have to be implemented and those at the bottom will end up unassisted and left to fend for themselves.

What happens when these resources are depleted? People will be turned away from doors that have traditionally been open. People will end up on the street. It has already happened. Instances of people left to fend for themselves in the harsh winter environment are becoming evident, as noted in the media last winter. Institutions such as our police stations, court systems and local district jail will have their hands full. Once again I will refer to the street people of Toronto, some of them just young children, living in sleeping bags on the street corner and asking for loose change from strangers. This is something that is not too common in Thunder Bay, and prevention of that state of affairs is what I am speaking up for. I will not be complacent and sit back in the comfort of my warm home and allow this government to make changes that will have adverse effects on people who are already at their ends.

People on welfare have had their incomes slashed by up to 20%, as noted in media releases. There have been people who have had their social assistance cut off completely. What are these people to do? One only has to use common sense to realize that these people who are deprived to such a state will retaliate in a way that nature demands. To survive, people who are in need will resort to deviant behaviour if that is their only viable option. People will prey on each other, will prey on those who have what they need. Deviant behaviour will increase many times over. The cost to society for reprimanding



these survival acts will be far greater than keeping the established order in place.

A wise man once said to me, "You cannot tell the future." There is truth to that teaching, but we must consider what we have and realize that what we do today affects people today and tomorrow.

**0950**

Rent control as it stands now is a protection for people who are in the low-income bracket, people who are living at and below the poverty level. It prevents rent from being unaffordable to them.

Let us face it: There are a number of factions involved here. On the one hand, we have people who are impoverished. Their incomes, as noted earlier, have been reduced; the cost of living continues to rise; services in the community are being lost. These are some of the variables they must deal with. On the other hand, we have property owners who rent units to these people. Rent is set, and they are allowed to have an annual increase. Their argument might be that the increase is not enough to offset the rising costs of maintenance, taxes, mortgage payments or whatever.

Both factions have needs. What the government is proposing favours the owner. If the government changes the rent control policy, the people who move will be subjected to abuse. It is only natural for an owner of a rental unit to increase rent to the level that people will pay. Remember that there are people looking for rental units who never had the need to look for rental units before. The number of people who are looking for accommodations to rent has increased. People have lost their homes or been forced to sell their homes because of job losses. There is a new wave of richer poor people in this country who are on the verge of becoming impoverished.

What the government is inadvertently proposing is to push the current poor people to a further level of deprivation, to make more people, more families, homeless. It is said that this will not happen. Well, who, what government, what organization will pick up the difference in rental costs that a family with children will incur because they have to move to another rental unit, for whatever reason?

Again, it is only natural for a property owner to realize economic growth by raising rent to what the market will pay. People who are property owners are usually in it for the money. There are property owners, such as non-profit housing units, that are a blessing to the poor, but one must remember that the waiting lists to get into these units are quite lengthy and that the wait to get a unit can end up being months. With these proposed changes that the government wants to impose, the waiting lists will get longer.

People who can no longer afford to pay for rental costs in the future will be forced to access accommodations at the local shelter or Salvation Army. When these places become so full that they have no place left for those seeking accommodation, it frightens me what will happen. Use your common sense to draw the conclusion: If the government continues on its current course, it will create a Third World environment in this country of wealth.

This kind of action by the government is forcing people to come together, forcing people to unite, forcing

people to retaliate against the Common Sense Revolution of this current government. It does not take much common sense to realize that people will come together, and together they will unite across this province, across this great country, to make it a better place for all. We are in this country all together and we all must realize that there is enough wealth in this country to support all if it is wisely and fairly distributed to all of its citizens and not just to multinational corporations that want to take the country and drain it dry of its natural resources.

Rent control is a basic mechanism that is a protector for those on fixed incomes. It prevents people from losing their accommodations because of high rental increases. It keeps people in a safe environment, away from the cold and harsh environment of the Canadian winter. If people are homeless and out on the street, they will do something to get warm. What will be our cost then?

**Mr Bruce Smith (Middlesex):** Thank you for your presentation this morning. It was very thorough and touched on a number of areas.

I note with interest that you raised the issue of jobs. While we were in Toronto last week, the Ontario Home Builders' Association raised that very issue as well, and in fact identified that under the current legislation some 5,000 jobs were lost. Equally important to that statistic is that they estimate that perhaps only 30% or 40% of those jobs can be recaptured with some changes to legislation. Most significantly, they suggest that perhaps we've lost a pool of skilled tradespeople in this province, and I think that's fairly significant.

One of the other issues — and you raised the Toronto example a number of times throughout your presentation. We've heard on numerous occasions examples of poor maintenance, existing harassment, some of them quite surprising, to be honest with you. I'm just wondering, from your perspective, how possibly could tenants or others endorse the current situation we have today, given all the tragic examples we have of living accommodation in the province currently?

**Mr Kimball:** I'm sure all the people who rent, who are protected by the rent control measures, don't complain about them. It's a tool and measure they can use to their advantage, and just using that to their advantage and knowing it's there endorses it. But if that's taken away, these people who are renting units will be left at the mercy of the market and they won't be able to come together as a collection of individuals to protest.

How can we endorse it? I don't know how we can endorse it, because we're not organized enough. The people, the tenants, aren't organized enough. There's an individual family here, an individual family renting units, and we're not organized. This is what will happen: When the government takes away these rent control measures, people are going to get to the point where they will start becoming organized, and then you will get the kind of endorsement you want. There will have to be some kind of measure taken, and rent control probably will come again if this one is taken away. People will be forced on to the street.

**Mr Alvin Curling (Scarborough North):** An excellent presentation, Mr Kimball. The \$10 billion they quote from time to time, the situation where those rental units



are in terrible disrepair, did not come about overnight; it came about because of landlords not taking the full responsibility when they had those increases built into the guideline, plus extra money they could get. They did not do anything about that, and now they're saying: "What do you want us to do? Cancel rent control and do that."

One of the things New Directions did not take into consideration or did not highlight was the speculation of selling off 84,000 non-profit housing units, which they'd like to do, which are in terrible disrepair and which they intend to fix up and sell back to the private sector and take off rent control. What New Directions also did not state was the 365 non-profit housing projects that were in the system to be built for those on the lower end. Do you think any part of these New Directions, any semblance at all, indicates that when this is in place, people at the lower end of the market who need access to affordable rental units will get any access at all? Any percentage? Do you see any sign of that happening?

**Mr Kimball:** I can't really answer that. All I know is that as many rental units as are built geared towards lower-income families in this country and this province will be snapped up, because there are people on the waiting list to get at the lower-rental units. If not enough of these units are built, then these people who can't afford to pay for them — if the rent continues to go up, what are these people going to do? They're going to have to go somewhere, and if they have to go to a shelter, if they have to go to friends or relatives, as they're doing now, it's just going to get out of hand.

**Mr Marchese:** Mr Kimball, some of the statements you make, in my view, are very real. Need for shelter is at risk. That's true. The waiting list for those who require affordable housing is growing; it's not diminishing. We're into a society where needs are becoming greater, not less. What they're proposing in fact is going to hurt those whom you are trying to protect.

There's a transfer here of moneys from renters to the landlords. They argue, as you just heard Mr Smith say, that the buildings are in a bad state of repair, and part of the argument is that if somehow we remove rent control they will repair the buildings and that's why we need to do this. I haven't read any evidence that says if we remove rent controls the landlord is going to put money back into the building. In your experience, is it your sense that if we eliminate rent control, all of a sudden the landlord, who should have done the repairs 20 years ago or 10 years ago, is going to do it today?

**Mr Kimball:** I doubt it very much. As I stated earlier, landlords are in it to make money, and what they're saying is that the money they're getting from the rental units is not enough to pay for all the repairs they may want to make to their structures. That may be the case, but often dollars were available through different government programs for these rental operators to fix up those rental units, and if they didn't take advantage of them at that time, that's their fault. Why should they cry for taking away the rent control measures now to raise the rents so they can fix their accommodations? I think it's kind of backwards.

**The Chair:** Thank you, Mr Kimball. We do appreciate your input this morning and your involvement in our process. Have a good day.

**Mr Kimball:** Thank you for listening.

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## PERSONS UNITED FOR SELF-HELP IN NORTHWESTERN ONTARIO

**The Chair:** Our next presenter is Marilyn Warf, representing the Persons United for Self-Help. Good morning, and welcome to our committee.

**Ms Marilyn Warf:** Thank you and good morning. My name is Marilyn Warf. I'm the regional director with Persons United for Self-Help in Northwestern Ontario. Persons United for Self-Help in Northwestern Ontario is an organization of persons with mobility, hearing, vision, psychiatric, developmental, non-visible disabilities and seniors who work together to address issues that impact directly on their lives, rights and freedoms. PUSH Northwest and the community-based Disabled Alliance Network groups include consumers in the geographic area of northwestern Ontario and the Nishnawbe-Aski nation, which, by the way, represents about three quarters of the geographic size of this province.

Many sections of the discussion paper New Directions are of concern for persons with disabilities and seniors, who are often made vulnerable by the very laws that claim to protect them. Under the section "Care Homes," the rights of care home operators far exceed the rights of tenants.

The care home operator is entitled to enter residents' units without notice to provide care or perform bed checks if it is agreed to by the tenant. While this type of arrangement may be required and requested by a tenant, there needs to be provision for formal agreement between the operator and the tenant to set the parameters of the entry and protect the rights of both parties. If the home operator does not have to give notice prior to entry, a written agreement would allow the tenant to specify their own terms regarding entry. What mechanism is in place that gives the tenant the right to spontaneously refuse any prearranged access for personal reasons or to spontaneously change the terms and conditions for access?

The tenant may wish to restrict access only to one or two individuals on the service staff or place restrictions for access specifically by gender. What policy will be developed to protect the tenant should the operator not be the provider? Will the rights be assigned to the operator or to the service staff? These details must be specified to ensure that issues of privacy, independence, health and safety be acknowledged and accommodated.

The discussion paper states that tenants in care homes may reduce their notice period to end tenancy to 30 days when they are giving up their housing involuntarily. This may be of great benefit to those who must make rapid decisions when changes in health dictate the need to move to a long-term care facility, but there is no definition of what does or does not constitute "involuntary," which leaves the interpretation open for potential conflict and/or abuse.

The operators in care homes will have the right to transfer residents to alternative facilities when the level of care needs change. The operator is charged with the responsibility of determining when the level of care needs



changing. Have care operators indicated the desire to assume this responsibility? What happens in a situation where the operator, again, is not a member of the care services? There must be comprehensive guidelines specifying the process for ensuring that any assessment is done by competent and credible professionals who are chosen by and/or with the individual. If there are no specific terms and conditions under which this process may or may not happen, then the operator has the right to use this as a means of eviction.

There must be rules and regulations as to who is qualified to assess the need for change of care and under what specific circumstances the landlord has the right to transfer a tenant. How will the government ensure that there is full professional assessment regarding the individual's needs, as well as mandatory documentation, prior to any transfer in order to protect the rights of the residents? Where is the provision which allows the tenant to hire external agencies to provide the service that was determined to be the reason for the change of care? If outside services are purchased, would the tenant not be allowed to remain in their residence?

For some individuals, a forced move from a care home to an expensive facility will mean financial hardship. How can care operators be given the right to transfer a resident when they are not only making health care decisions but also financial commitments, without any legislated requirement for the individual's consent? People with disabilities living in care homes live independently because of their ability to access services onsite. The provision for the rights of operators to make transfers and determinations of need for these individuals undermines the very concept of independent living.

The discussion paper says that transfers would be subject to appropriate protection but does not specify what these protections should be or what level of protection would be considered appropriate. There is also nothing under the tenants' rights to ensure that the tenants themselves are the ones who have the right to determine if the protection is appropriate.

Giving the right to transfer residents to the operators of care homes violates the Health Care Consent Act that requires the person must consent to admission to care facilities. The suggestion that the operator even have rights over all persons in care homes illustrates this government's inability to see people with a disability as equal to tenants in all other types of housing. Do persons with a disability not qualify for tenancy rights because they use care services?

The government is proposing to establish a totally different set of rules for tenants in care homes and tenants in other types of housing and separates references to housing and the provision of services, which is in direct conflict with the Long-Term Care Act, under the Ministry of Health, for long-term care reform. In fact, the long-term care planning committees are mandated to address the issues relating to care homes.

The Ministry of Housing should not even be addressing the issues of levels of care and the assessments of care needs. Why would housing be addressing health issues? Tenants are tenants, no matter where they live. Care homes are housing just like any other type of

housing, except that the apartment comes with access to care services. The Ministry of Housing should only address housing issues and tenants' rights, and all tenants should have the same rights regardless of where they live.

One of the most disturbing parts of the discussion paper relates to the care home operator's ability to fast-track evictions of tenants who "pose a threat to other residents." Why is there provision for fast-tracking of evictions solely for persons in care homes? The government is implying that individuals in care homes pose more of a threat to other tenants than individuals living in any other housing. This type of thinking supports old myths and misconceptions that persons with disabilities, particularly those with psychiatric or developmental disabilities, are more violent than the general population. This has been proven to be untrue over and over again, and unfortunately, the myth is fortified and discrimination continues because of proposals such as this.

Are there not tenants in other types of housing who exhibit threatening behaviour to others? Would those landlords not ever encounter a situation where they wanted to fast-track the eviction of a tenant because of threatening behaviour to another individual? Our question is, why are care homes and the tenants in care homes singled out in this particular instance?

There is a long history of abuse, harassment and intimidation of persons with disabilities by landlords, which led to the provisions in the Residents' Rights Act. Under the proposed law, care home operators could deem a tenant's complaints about service or maintenance and their general assertiveness for their rights as a need for care change or as a threat and fast-track the eviction of a tenant from a care home. Where is there any consideration of the tenant's rights to a hearing due to fast-tracked eviction from a care home that equals the rights of tenants in any other eviction process?

#### 1010

Many consumers see this as an opportunity for home operators to remove an individual they consider to be a problem tenant, one who complains about services and maintenance when they consider it to be inferior, in order for the operator to lower the standard. In other words, if you can evict a person in a care home because they're the ones who are constantly complaining about the fact that the services provided in that care home are inadequate and continually talking about the maintenance that needs to be done, under the terms and conditions under care homes, that operator can determine that tenant to be needing changes to their care or in fact being a problem, being a threat to other individuals, and evict them on that basis.

This scenario may be dismissed as not probable or possible, but these are the actual expressions of concern from tenants in care homes, who are very frightened and threatened by the potential for abuse due to the power proposed to be given to the care home operators.

Operators of care homes are given the right to convert, renovate or demolish facilities as they see fit on condition that they find alternative, comparable accommodation for the residents. Persons with disabilities and seniors, many of whom have low incomes, are often forced to move several times in a year from one care home to another as



operators of facilities decide to privatize to attract tenants who can pay higher rents. In some cases people are forced to move to another community because there is no other appropriate facility, which means they leave their support networks, family and friends.

This discussion paper states that alternative, comparable accommodation must be found when an individual is forced to move. What process will be put in place to ensure that the accommodation found is suitable? Where is it stated that tenants will have the right to determine whether or not the alternative accommodation is suitable and meets the needs of that individual? What consideration is there for the amount that the individual can afford to pay? Does "suitable and comparable" also apply to the cost or the condition of the facility? What process will be in place to ensure that cost is a major consideration as the right of a tenant? It is often difficult to find accessible housing and supportive services in smaller communities. What kind of consideration will be given to the length of time the operator must give notice to the tenants?

There is no definition in this discussion paper about what constitutes a care home, but the references throughout lead consumers living in supportive housing and group homes to suspect that the intent of this government is to include tenants in these types of housing under the directives regarding care homes. Is the government's intention to protect the cost of rent in these types of housing but make residents subject to the conditions under care homes? If this type of housing is exempt, then please specifically state the exemption as it was stated for the short-stay facilities.

Under the section of this discussion paper dealing with abandoned property, there is a provision for the landlord to obtain a writ of possession and dispose of the tenant's property after 30 days when personal property is left behind and it is unclear whether the tenant has moved out. This is of particular concern for persons who live independently in the community but from time to time check themselves into facilities that provide psychiatric services as required and often for more than 30 days. This is also a problem for persons with developmental disabilities. Not all tenants will remember to, have an opportunity to, or be able to notify the landlord prior to leaving for 30 days; therefore, the landlord can state that it is unclear whether or not the tenant has left and has the legal right to evict the tenant whom they may consider to be unsuitable because they have a psychiatric or developmental disability. The landlord can now also renegotiate for rent with the incoming new tenant.

If you think this is not a realistic scenario, talk to persons with psychiatric and developmental disabilities about the difficulties they have in obtaining housing and retaining housing once the landlord determines that the tenant has a psychiatric or developmental disability, often not because of the tenant's personal behaviour but because of the community's misconception that all individuals with psychiatric and developmental disabilities are violent. Where is the built-in safeguard for tenants in this situation?

Access to affordable housing has always been a problem for persons with disabilities because their income

is usually 60% to 70% lower than persons without disabilities. This also applies to seniors who are on fixed incomes. This government has already issued a moratorium on not-for-profit, geared-to-income and supportive housing, which has meant that many people who need this type of housing cannot be accommodated and are forced to rent elsewhere. Rent increases every time a rental space is vacated, which means escalating rents with no ceiling. The government says that the market will set the price ceilings. Consumers in northwestern Ontario do not believe that will happen. They believe this legislation will mean that they will have no access to affordable housing. The potential is great that this legislation will cause a major housing crisis. Has the government considered the full impact of this legislation on people with disabilities, seniors on fixed incomes, low-income families and the general population?

Our organization acknowledges that the government's primary goal is to rev up the economy and decrease the deficit. But removing rent controls will not mean that the private sector will build more rental property; they've already made those statements. Other factors such as municipal taxes must be reduced before they can be enticed to build.

The majority of the presentations to this committee have illustrated the negative impact on the people of this province if rent controls are removed. This government cannot go forward with the plans to end rent control, make people more vulnerable or reduce the rights of tenants in care homes. The people of this province have told the government loudly and clearly. The Harris government does not have the mandate to destroy the quality of life of this province.

**Mr Curling:** I just want to say you're on the right track when you speak about the government developing a housing — it's not even a housing policy. If there was a housing policy, then we could understand all over factors and facets of what constitutes housing. But developing a policy like this in isolation, without any consultation and input from the Ministry of Health, is telling how vulnerable those people with caregivers are. Thirty days? As you pointed out very well, many of these people sometimes are located two months afterwards in the hospital, and the caregiver did not even know, or in jail or some other kind of situation or institution. This is quite a devastating blow to those most vulnerable people in our society. Your presentation was excellent and right on the mark.

**Mr Marchese:** Ms Warf, thank you for coming before this committee. We have seen you often, and if I recall, it was at the other hearing on the Advocacy Act. Or was it employment equity?

**Ms Wart:** All of the above.

**Mr Marchese:** Your advocacy around issues of people who are vulnerable is impressive and we're happy that you continue to do that. Many organizations are being defunded, so they won't be able to advocate except where volunteers will put in the time to do so. It's a big loss for many vulnerable people when we don't give the funding that allows to help out.

Your statement is very critical and I believe it to be so. "The potential is great that this legislation will cause a



major housing crisis." I believe that to be true. The question they never answer is, "Has the government considered the full impact of this legislation on people with disabilities, seniors on fixed incomes, low-income families and the general population?" There are no studies and they never addressed that question.

**The Chair:** Thank you, Mr Marchese. Mr Parker.

**Ms Warf:** May I respond to that before we move? I also want to indicate that one of the things that's not considered when you're looking at rental rates is the fact that that does not indicate rental accommodations for a person who requires accessibility. That's a whole other ball game. People who require accessible accommodations do not have the same opportunity to just go out and look for apartments. Their needs are very specific. They're not considered independently in any of this proposal and they are extremely vulnerable. With an aging population, this will become far more of a crisis, and that's not addressed here either.

**The Chair:** Guess what, Mr Parker; you just lost your minute. Thank you very much. We appreciate your attendance here this morning and your input into our discussions.

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#### THUNDER BAY HOME BUILDERS' ASSOCIATION

**The Chair:** Our next presenters represent the Thunder Bay Home Builders' Association: Fiona Skogstad, executive officer, Dave Specht; president; and Harry Jaspers, past president. Good morning. Welcome to our committee.

**Mr Dave Specht:** Good morning. My name is Dave Specht. I am the president of the Thunder Bay Home Builders' Association. With me today are Harry Jaspers, our past president, and Fiona Skogstad, our executive officer. We represent over 40 members who are builders, land developers, renovators, suppliers and those in the service and professional category.

We support the comments made by the Ontario Home Builders' Association to this committee last week. While we appreciate the opportunity to address the committee on this important topic, I should state up front that our members were somewhat reluctant to attend this meeting. Very few of our members are currently apartment managers and there is no one I know of who is contemplating building rentals. As well, business has picked up for many of us and we all have time constraints.

I should also point out that our new housing market is much different from southern Ontario's. I understand that when OHBA's president met with Ernie Eves during pre-budget consultations earlier this year, he made reference to housing starts in a number of market areas across the province. Thunder Bay was at the top of the list because our improvement was 100% year over year. We doubled our number of starts from three to six in the January-to-March period. According to CMHC statistics, the Thunder Bay CMA recorded 121 total new starts to the end of July. There are probably another 30 to 40 starts for this month, so things are looking up.

We believe it is important to support the attempts of the Harris government to correct the rent control system.

The rent control system is in need of a major overhaul. The introduction of rent controls in 1975 and the tightening of rental legislation, particularly over the past 10 years, have severely diminished the incentive for builders to expand the stock of rental housing in Ontario.

In our community, only 15 units of private rental were built in 1995 out of a total of 289 starts. To the end of July this year, there have been only 16 private rental starts out of a total of 121 starts. These have been fourplexes which were primarily built because of the Bill 120 legislation allowing apartments in houses. There were 20 assisted starts in 1995; that's 10 semi-detached units and 10 apartment units. This year, there are none. We applaud the government for taking swift action to cancel the non-profit housing program last summer.

The vacancy rate in Thunder Bay is 6.2%, according to CMHC. This is higher than many other markets across Ontario. In most communities in the US there remains healthy construction of rental by private interests even when the vacancy rate is 8% to 10%. It is clear that the rent control regime has been a major contributing factor to suppressing private rental supply.

A variety of factors have boosted vacancies to a higher level than any time since CMHC began doing October surveys of apartments in 1978. According to CMHC's local housing market report, the higher vacancies are because of sagging employment among young people, who are typically renters; favourable mortgage rates, which have encouraged renters to become homeowners over the past two years; and additions to the rental stock. I was going to add another comment, in that there have been a lot of lower-priced condominiums built in this area too, so it's been bringing the younger people and other people into a more favourable situation to own something of their own. That hits the rental market also. The average rent for a two-bedroom apartment based on last fall's survey was \$676. Most rental rates have remained unchanged in the city because of our higher-than-average vacancy rates.

It is because of this soft market that we in Thunder Bay are concerned about the potential loss of our legal maximum through this new legislation. We believe that when an apartment is vacated, and we will not even be able to get the present rent let alone negotiate an increase, our present legal maximum will be adversely affected.

Certainly, it is a critical element for there to be investment in new rental buildings. We are confident that the government's proposals are going in the right direction to restoring balance in landlord-tenant relations and encouraging new supply. The removal of all rent control provisions for newly constructed units is helpful to our industry but does not provide the certainty which is required for investors; controls could be re-established at a later date.

The Thunder Bay Home Builders' Association has reviewed the consultation paper and, as we have said, support OHBA's position. In addition, we would like to comment on the following:

**Repealing the Rental Housing Protection Act:** Repeal of the RHPA will act as an incentive to improve existing apartment stock through conversion to other, more appro-



priate uses. A building owner was very restricted under the RHPA and could not make decisions on the renovation, recycling or alternative uses of the buildings in their portfolio. The RHPA ignored the natural life cycle of buildings and extensive capital repairs were not possible because of the capital cost pass-through restrictions.

The proposal the government has put forward will allow tenants to purchase units in the case of conversion. We believe that if the majority of tenants are supportive of conversion, the owner should be allowed to proceed in a timely fashion. For tenants who wish to remain as renters, there are possible benefits, such as better maintenance and repair of the building through reserve funds set up for this purpose.

Building regulations and the construction process: OHBA has communicated to the government's Red Tape Review Commission that the regulatory environment in construction is stifling and adding unnecessary costs. For instance, ASHRAE 90.1 energy-efficient standards added roughly \$1,000 to the construction of a typical two-bedroom apartment.

The industry has made a number of recommendations which are contained in Lampert's report: consolidation of responsibilities governing the design, construction and safe use of buildings under one ministry, eg, building code, fire code, technical standards statutes and even health and safety; minimizing enforcement overlap; reducing overly restrictive site plan control requirements; and allowing greater discretion on the part of officials with regard to alternative designs.

I would like to add that sprinkler requirements would not be cost-effective and would be a deterrent to our industry. We advocate a back-to-basics approach to the Ontario building code, with cost-benefit analysis.

As a specific example, sales taxes in Ontario combined with the federal GST have resulted in a level of tax on building materials which is 2% higher today than in the mid-1970s. This assumes that materials account for 30% to 40% of the final value of the rental project. The combined provincial-federal sales tax rate since 1991 has been 17%.

A major change occurred when the federal sales tax was replaced by the GST in 1991. The 7% GST is now payable on the full value of new rental projects; for new ownership housing, the GST paid is 4.5% for homes priced up to \$350,000.

Landlords must pay GST on inputs purchased to operate the project; eg, management fees, maintenance contracts, supplies etc. Most of these operating inputs were not subject to FST. Unlike other businesses, residential landlords do not collect GST. The GST must be borne by the landlord as an extra cost and is not applied as a credit against GST collected. On the other hand, commercial and industrial landlords receive credit for the GST they incur on inputs.

A further threat to the entire new housing is the possibility of harmonization of provincial taxes with the GST. We commend the provincial government for the stance it has taken with the federal government to date, but our industry continues to be leery of the detrimental affects that harmonization could have.

Lampert's report states that "rental housing is clearly one of the areas where a strong provincial government

initiative could redress the wrongs suffered in the current design of the GST — and ensure that they are not repeated in the new harmonized tax." The construction industry recommends that if harmonization does proceed, it should be, at a minimum, revenue neutral with respect to our industry.

Preferably, the following will be implemented: extend the GST rebate to private rental constructions; increase the GST rebate enough to offset the full combined impact of harmonizing the GST and the provincial sales tax; remove land from the tax base; and eliminate the discriminatory treatment faced by private rental landlords with respect to GST paid on operations.

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We encourage the provincial government to remember the interests of our sector in discussions with the federal government.

In conclusion, the Thunder Bay Home Builders' Association urges that reform of the rent control system proceed. At a minimum, the private sector needs this assurance in order to begin building again.

There has been too much rhetoric about tenants being evicted from their units as a result of this legislation. Our reading of the proposals would indicate that there is ample protection for tenants. In fact, the penalties which are contemplated are unnecessary in our opinion. The vast majority of landlords have been unable to achieve the legal maximum rents. Landlords prefer to keep tenants in their buildings rather than absorbing the costs associated with tenant turnover. In our opinion, tenants will not be dislocated under these proposals. For the majority of sitting tenants, we predict that there will be no noticeable changes whatsoever.

Thank you. We would be pleased to take questions.

**Mr Marchese:** Thank you very much for your presentation. You state that there is ample protection for the tenant, yet all the tenants who have come before this committee are very worried. What you're saying is: "Don't worry. There are protections for you." Is that correct, more or less?

**Mr Specht:** More or less. Everybody would like to raise the rent under the criteria right now, if it's 4.8% or 2.8%, each year, but today we're not doing that because you want to keep the tenants you have. Because there's so much vacancy rate, it seems like tenants can go back and forth now and even negotiate with landlords and say, "He's renting that for \$600; can you do better?" So I think some of the tenants have protection as far as that is concerned.

**Mr Marchese:** That could probably happen every now and then where you could negotiate that in some parts of Ontario. Tenants are very worried that when this climate changes, they won't have the protections any more. But I want to get to another question.

You mention in four different places that, "particularly over the past 10 years," rent control "has severely diminished the incentive for builders to expand the stock of rental housing in Ontario." In four places you raise this over and over again. Mr Lampert, the person whom you cited, and many others that I have read say that rent controls in and of themselves do not give the incentive, do not in fact create more housing stock. But you say



that with some certainty, so that somehow if we do that, some of you, or many of you, will build. Is that correct?

**Mr Specht:** I have apartments and if I'm, say, using the same rate as I did five years ago — and three years ago the price of lumber doubled within months, right? Plus, the price of labour has increased, and everything else, so the incentive to build is not even there, because it doesn't balance out.

**Mr R. Gary Stewart (Peterborough):** Thank you, sir, for your presentation. Two questions: I'm looking at some statistics here in Thunder Bay, where back in 1990-91, when there was a 1% vacancy rate, there was a 5.7% increase. In 1994-95, when there was a 6.2% vacancy rate, you've got a 0.45% increase. So my first question is, does this not prove that the market will drive what the rental rates will be?

The other question is, you're saying now that there are a lot of individual new home building starts, and there have been and appear to be this year in a lot of other areas. Do you feel that new building starts will help to make more apartments vacant, because the younger people are finally getting a bit of a down payment, low interest rates will allow these people to buy homes and will offset or will make more apartments available, which could in turn drop the rental cost?

It's a long way around of asking two things: Will the market drive it? But you're saying new home starts are there this year — good rates, good mortgages — and those younger people are coming out of rental units. Will that not make the vacancy rate go up and the price come down?

**Mr Specht:** A lot of the new homes being built today are being built by private people, though. They aren't being built by contractors.

**Mr Stewart:** I appreciate that, but are many of them not coming out of rental units?

**Mr Harry Jaspers:** Yes.

**Mr Stewart:** That's my point. So there should be more rental units available.

**Mr Jaspers:** There definitely are. I'm a landlord too. I own rental apartments and they're hard to fill at the present rate. So you don't have to even look at the increase we can get. We are going backwards here, big time, and it's about time we have some control. If there is a time when we can catch up, we've got to catch up.

**Mrs McLeod:** I'd like to pursue that same line of questioning because I think it comes back to the interesting factor of what happens in one of those rare communities in Ontario where we do have a 6% vacancy rate. One of the things you're saying is that we're building more single residential housing and not many people are building rental housing. Part of that reason is, as you've just said, the rental units are not being quickly filled at current market rates. Given that fact, that we can't fill the existing units that we have at current market rates, do you think it's unlikely that taking rent control off is going to mean that anybody's going to get into building new rental units?

**Mr Jaspers:** Not right now, but hopefully in the future we can get some catch-up. Right now, it would not pay. The investment to build apartments would be ludicrous at this time in Thunder Bay.

**Mrs McLeod:** Theoretically, with a vacancy rate of 6.2% or 6.5% we should actually be seeing rents coming down significantly so that the units can be filled. I don't think we've seen that in Thunder Bay. I'd be interested in your comments because I think Dave's made a couple of comments about the other costs that are built in that make it not profitable for people to be building rental stock. You've got a certain market level and if you go below that, you're not going to make a profit.

**Mr Jaspers:** Can I comment to why I think we have our rental vacancy so high?

**Mrs McLeod:** Yes.

**Mr Jaspers:** Because of the past government. The subsidized housing that's been put up in Thunder Bay is our main competitor. We, as private sector landlords, can't compete against subsidized housing.

**Mrs McLeod:** Could the existing vacant units then be filled by some of the 1,600 households that are waiting for housing?

**Mr Jaspers:** I would like to see, if you want to subsidize, go subsidize the sector people to go find apartments with the private sector people. We can't build. You have to make a dollar, let's say; otherwise, why would you build?

**Mrs McLeod:** So you'd be advocating a shelter allowance concept that was large enough to be able to put some of those families who are on the waiting list —

**Mr Jaspers:** Right.

**Mrs McLeod:** — into existing rental units at current market rates?

**Mr Jaspers:** To the private sector.

**Mrs McLeod:** Right. I guess my point is, you almost have to keep the subsidy enough to go in at relatively close to current market rates because it's not profitable to build anything at lower than current market rate. Is that fair?

**Mr Jaspers:** Sure.

**Mr Specht:** Could I make a comment also? If we're not building new units here and the price of our rental units goes down, it's going to be very hard to maintain the existing buildings that are already there. Some of them are getting older and older and the cost of repairing them is getting greater and greater. I guess if we keep our rentals where they are, then at least maybe there will be a little incentive later on to build.

**The Chair:** Thank you, folks. We appreciate your input this morning.

1040

#### THUNDER BAY EMERGENCY SHELTER

**The Chair:** Our next presenter is Keith Milne, representing the Thunder Bay Emergency Shelter. Good morning, Mr Milne. Welcome to our committee.

**Mr Keith Milne:** Good morning. I guess one question, as I sat and listened to the previous presentation, was whether or not that group had consulted with its own membership. There are a number of strong contracting companies in town that were very upset with the withdrawal of the supportive housing and non-profit housing projects that were keeping them going and giving them good business.



One has to also remember that the population of Thunder Bay has been static for more than a decade, so the market is different from that in southern Ontario. If you were to divide the statistics and actually analyse where the vacancy rate is in Thunder Bay, the vacancy rate is on the high end of the market, not on the low end. If you were to analyse the number of classified ads in the paper, what's available is all on the top end of the market. That's where your vacancy rate is.

Shelter House/Thunder Bay, or the emergency shelter, represents a population group of homeless and marginally homeless people, and the proposed vacancy decontrol legislation has a number of implications for the homeless and marginally homeless people of Ontario. While the vacancy decontrol policy has potential for great negative impact on Ontario's poor, this impact will be even more severe for the homeless and marginally homeless.

The most outstanding component of the vacancy decontrol proposal is that rent controls are being eradicated. Each time a new tenant occupies a rental unit, the landlord will be able to charge whatever they can get for that space, up to 10% over the previous tenant. The problem is, how is that tenant going to know what was being charged ahead of time? The rent increases may be as high as 10%. For the homeless and the marginally homeless, who may move frequently, this means frequent rent increases beyond the range of their income. Rent control during a tenancy period will be of little help to a homeless person who cannot put together enough money for the first and last month's rent in order to secure an apartment. We have to remember that this potential 10% increase in rental costs comes hard on the heels of a 22% decrease in social assistance payments, on which many homeless and marginally homeless people depend.

The proposed closing of the rent registry means that tenants will no longer be able to find out what services a landlord has previously offered at a given price. This may seem irrelevant to tenants moving into a new unit with no rent control; however, the information the registry provided would be helpful for a tenant in negotiating the rent in a new space. This information has historically been a source of protection for those seeking new housing. If the registry remained open, tenants and housing activists would know if the rent increases resulting from this bill were within the estimated 10%. Without the registry, it will be much more difficult to monitor the activities of landlords and the impact of this legislation on renters.

Thirdly, the proposed legislation seeks to make it far easier for landlords to evict problem tenants. While the current eviction procedure may take up to five months, the government is hoping to make this a much faster process. Many homeless people have problems in living and that may make them seem like problem tenants. Since landlords can raise their rent whenever a tenant moves, this may cause some landlords to harass vulnerable tenants and evict people more frequently. The homeless and marginally homeless are a vulnerable segment of our population, and this will only serve to increase their vulnerability.

Another major implication of this proposal is a reduction in the amount of affordable housing in the province, not only through rent increases but by the reduction of

the number of units available for rent. This can be achieved through two means. The government is discussing the selling off of Ontario public housing and putting a stop to non-profit housing, which they've already done. Any new housing built will not be under current rental housing guidelines.

In addition, the government wants to dismantle the Rental Housing Protection Act, which will make it much easier for owners to convert rental housing into condominiums or to tear down rental units and put property up for sale. This will mean that unless a renter has the resources to purchase their home, which is highly unlikely for a marginally homeless person, they will be out on the street. At that point, they will be searching for an apartment which has recently had its rent raised by as much as 10%.

Finally, where a rental unit is in serious disrepair, tenants will no longer be able to legally withhold their rent until repairs have been made. This will have a particular impact on the marginally homeless. For people with low incomes who live in rental units in serious disrepair, withholding rent is sometimes the only viable tool for forcing the landlord to take action. By making such a move illegal, the government is likely forcing the marginally homeless to continue living in unsafe conditions which will only worsen as the tenant loses their only bargaining tool.

All in all, if the proposed vacancy decontrol proposal goes through, the homeless and marginally homeless will suffer greatly. This legislation will make it much harder for the homeless to secure decent, affordable housing. It will also make it much harder for the marginally homeless to improve their living conditions and stay in their housing. This proposed bill will have a serious negative impact on each of these two very vulnerable groups in our society.

**Mr Maves:** Thank you for your presentation. I have just a couple of quick comments about builders who made a lot of money with the previous government. We have testimony — and I've spoken to several people in my own riding in Niagara Falls who have told me the high amounts of money the government paid, substantially above what the market would bear, and that was at the taxpayers' expense. They paid more than they should have been paying. I wouldn't be surprised that there would be some builders out there who would like to see that program continue.

My first question is that you said there's a high vacancy rate in high-income units. One of the problems with rent control is that people with stable jobs and stable incomes get into a rent-controlled unit and never move. Landlords have said several times to us, "You're subsidizing the wrong people; you're subsidizing wealthy people." I wonder if you had any comment on that.

**Mr Milne:** First of all, I'd like to comment on the comment about contractors. True, the non-profit housing needed to have some refinements because the guidelines and the costs that were usually established in southern Ontario were not always reflective of what could be done more cost-effectively in other regions. That did need some work, although I don't know of any contractors who were really getting rich on that program, but they were keeping their staff and their labourers working and



we were able to produce and have some adequate non-profit housing.

I'm not convinced that we were at any time subsidizing the wrong group. However, with rent geared to income, it is the landlords who are being subsidized. If that's the wrong group to subsidize, then yes, I'd agree with that.

**Mr Maves:** One of the things we've talked about this morning quite often is that the rental rate for an average two-bedroom unit in Thunder Bay is \$659. If a landlord over the last five years had taken his allowable guideline increase, the rental rate would be \$704. Doesn't that indicate that the market will only bear \$659 and that therefore the market is working? Most landlords would have a legal maximum. They could charge probably higher than \$659, can't get it, so aren't charging it. Why would you believe that they would try to evict tenants and jack up rates if right now they know the market won't bear it and they could be charging more?

**Mr Milne:** I'm not sure that the landlords of Thunder Bay are necessarily analysing it in that way, that they're keeping the rents down because that's what the market will bear. First of all, I am talking from a perspective of low-income people who are probably on assistance, so the rental for a two-bedroom is above what their shelter allowance is, as it is now.

We've seen an influx of people coming from southern Ontario, particularly Toronto, because there is a little bit more affordable housing here than there is in Toronto. However, condominiums might be cheaper in Toronto. I've seen some for a lot less than \$100,000.

Probably the vacancy rate is more because of the dynamics, the fact that in northwestern Ontario people are still very much able to access the dream of owning their own home. People, after they've been living in an apartment for a number of years, if they're in a stable situation with a stable income, have been able to put the resources together to move into their own home. There isn't any kind of program where that's available to lower-income people. We're ending up, I think, with a market where if you have an adequate income, the first thing you do is move into your own home.

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**Mr Mario Sergio (Yorkview):** Thank you for your presentation. During the past week in Toronto, we heard from landlords, tenants, builders, developers. No one likes the proposed legislation. It doesn't do anything for tenants and it doesn't do anything for developers to come back on the market and build affordable units.

We heard from the Urban Development Institute, UDI. They said that if the industry's recommendations were to be accepted by the government, they could start to build some 10,000 units immediately. What are those requests from the industry? He said red tape, elimination of rent control, realty taxes, provincial taxes, GST, education levy, development charges, house taxes, land levies, lot levies, and even with that, they still would like to have a subsidy. Do you think the government could afford to do all that and still have builders not able to start to build new affordable housing?

**Mr Milne:** No, I don't think the government can afford to subsidize people who are supposed to be in the capitalist system. If anyone's going to be subsidized, it

should be the population on the lower income and those who are vulnerable. If you're a capitalist and if you're a builder, you should be in the business of trying to build within the marketplace with what's available privately.

**Mr Sergio:** But even with all that, if the industry still is not able to produce affordable housing, do you think this is the right time to eliminate rent control and for the government to completely get out of the affordable housing business?

**Mr Milne:** No. I think the government has a responsibility to realize that they are governing the entire province and the entire population, not just those who are at the higher income level.

**Mr Sergio:** The province, if you will, the government, has a responsibility to stay in the housing business to provide for those who need affordable housing?

**Mr Milne:** There will always be a segment of our population in need of the support of the general society. That's not the contractors and the builders and those who are in business so much as people who do not have the skills and have disabilities and have experience barriers that have limited them in their ability to have a better quality of life.

**Mr Sergio:** One of the objectives of the proposed legislation is to put more protection on the tenant than the unit. Being familiar with the proposed legislation, do you think that as it is proposed this will have more protection on the tenant or the unit?

**Mr Milne:** I think the protection will be on the unit. It scares me when I see the first line of the title saying, "Tenant Protection," because I think it has nothing to do with tenant protection.

**Mr Marchese:** Mr Milne, that was the somewhat related question I wanted to ask you. This tenant protection proposal does a great deal to protect the landlord, and you pointed out a few of them. First of all, rent decontrol is coming in, which transfers wealth from tenants to the landlords, because they haven't been making enough. They are not doing very well and they want to build, so they need a few more dollars.

Second, they want to get rid of the rent registry, as you pointed out, not to protect the tenant but to protect the landlord. It has serious implications. The Rental Housing Protection Act is gone, permitting more of that rental accommodation to turn into condominiums. We believe that to be true, and the condominium association is very worried that it's going to happen, that it will create a glut. Also, the withholding of rent is sometimes the only viable tool for forcing the landlord to take action, and they're eliminating that. Is there anything in this proposal that's going to help the people you're here advocating for today?

**Mr Milne:** Nothing I've seen will be beneficial to the population I see most: the homeless and the marginally homeless.

**Mr Marchese:** Mr Milne, I want to ask you a favour. You see, I can't ask this question because they won't answer it, so I want to read the question, and if it suits your interest, perhaps you can ask it of government. This question was raised by Marilyn Warf. The question is, has the government considered the full impact of this legislation on people with disabilities, seniors on fixed



incomes, low-income families and the general population? Would you mind asking that question to the government?

**Mr Milne:** In fact, I would maybe reword it to ask the question of whether any study has been done into the implications of this proposed legislation and if that study has gone beyond consultation with landlords and private interests.

**The Chair:** Mr Hardeman, do you want to take a shot at it?

**Mr Hardeman:** As it relates to studies, obviously, to gather the information is part of this process. It's a consultation paper to hear the input from all the parties that are going to be impacted by any change in the legislation. That's why we're happy to be in Thunder Bay to hear what the people of northwestern Ontario feel about the proposal. We have had consultations with some 60 different groups, including the advocacy groups for the tenants, the advocacy groups for the landlords, landlords themselves, the builders. There were some 60 different meetings the ministry held to get the input to put this discussion paper together so we could take it out on the road and hear what the public has to say, and hopefully when it's concluded we will come up with legislation that will protect the tenants and meet the need of our industry.

**Mr Marchese:** Since you get no answers in that regard, I wanted to ask another question.

**Mr Peter L. Preston (Brant-Haldimand):** You said he wouldn't answer. The guy was answering, but you won't listen.

**Mr Marchese:** I heard the answer. The answer is, "We're consulting you. Thank you, Mr Milne, for giving us your consultation ideas."

Wages are down, unemployment is up; a lot of people are not faring very well in this economy. You heard some of the developers who were here before. They want to be able to catch up. As they catch up, how are people whose wages have been frozen, who are losing their jobs, going to be able to cope with what developers say, "We want to catch up"?

**Mr Milne:** If we truly have a capitalistic system, which I'm not sure this government is capable of understanding, then the market would wait until those who are unemployed have caught up and the market truly can handle the input of more housing units. I don't think there's really been a lot of in-depth thought involved. When you mentioned that 60 groups were consulted, what are the majority of those groups saying? Even in these hearings you're having now, it seems to me that the majority of presentations are coming from tenant groups and groups that are vulnerable and they are very concerned. I trust that the government is listening.

**The Chair:** Thank you, Mr Milne. We appreciate your input today.

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CANADIAN MENTAL HEALTH ASSOCIATION,  
THUNDER BAY BRANCH

**The Chair:** Our next presenter is Maurice Fortin, the executive director of the Thunder Bay branch of the Canadian Mental Health Association. Good morning, sir. Welcome to our committee.

**Mr Maurice Fortin:** Good morning, Mr Chairman and members of the committee. Welcome to Thunder Bay. We appreciate the opportunity to be consulted and the recognition of Thunder Bay as a regional centre for the northwest.

By way of a little bit of introduction, I want to talk about the organization I work for. The Canadian Mental Health Association, Thunder Bay, is a branch of the national volunteer association. We are dedicated to maintaining, enhancing and promoting the wellbeing of individuals, families and communities.

As a community mental health agency in this city, we provide a number of important functions. Our direct care services are targeted towards people with a serious mental illness. We provide a clubhouse model program with a pre-vocational day component, community support case management, supported employment, which we know the current government supports, and social recreational opportunities. We have a volunteer-based program which provides one-to-one support and group opportunities, which promotes social integration. Our other services include community-wide information and referral and public education in the area of mental illness, mental health, such as suicide intervention courses, which is a grave concern in the northwest.

We've been involved in development and provision of non-profit housing with support services since 1988, and in fact have been providing support to individuals living in a variety of housing situations probably since 1980. Currently, in conjunction with the Ministry of Municipal Affairs and Housing, we own 12 supportive housing units and provide support to another 20 individuals with psychiatric disabilities living in units owned by non-profit housing organizations. Our perspective regarding the proposed tenant protection legislation is drawn from our experience as a landlord and as a support provider to tenants living not only in subsidized situations, but in market rental situations.

By way of background, I just want to talk a little about who are individuals who suffer from a mental illness. They really reflect a broad spectrum of our society and include people of all genders, race and social strata. The various mental illnesses include the major affective disorders such as depression, the schizophrenia disorders and the personality disorders. I take the time to do that because people often get us confused; they're not sure if we're working with the developmentally handicapped, the mentally retarded or people with a mental illness, so I take the time to make that distinction for you.

Some illnesses, such as schizophrenia, are the result of a biochemical imbalance, and others are environmentally rooted. Often people who have suffered years of abuse as children and young adults come into the adult mental health system.

A number of well-known individuals have publicly acknowledged that they suffer from a mental illness. In fact, the list is quite endless, but I'll note a couple. They include actor Rod Steiger, country singer Charlie Pride, TV newscaster Mike Wallace, and Nobel Prize winner in economics John Nash.

The reality, however, for most of the estimated 118,800 people with a serious mental illness in Ontario



is one of poverty, unemployment and a lack of treatment and rehabilitation. Of the total number of individuals on social assistance under family benefits Gains-D, which is an issue I know the current government is concerned about, people with psychiatric disability are 25% of that number. The rate of unemployment for the mentally ill runs in the 70% to 80% range. The estimates for people who are homeless with a psychiatric disability range between 30% to 50%, and some people say it's 60% and 70%. Clearly, issues of income, decent affordable housing and community supports are important for people suffering from mental illness.

I just want to respond to a few of the key issues in the discussion document. With respect to protection from unfair rent increases, included in the rent control elements of the legislation is a proposal to remove rent controls from rental units once vacated, allowing landlords to negotiate rent with incoming tenants. We can foresee a number of problems related to this approach. According to a report commissioned by the current government, the Lampert report, it is estimated that some 25% of tenants move annually and some 70% relocate over the period of five years. The potential for rents to be set outside of rent control on most rental units in Ontario is very likely to occur over the next few years.

According to the Social Planning Council of Metropolitan Toronto, an estimated 40% of people on social assistance already pay shelter costs in the private rental market in excess of their shelter allowance. We believe the lack of rent control will only exacerbate that problem.

Many individuals with psychiatric disabilities face repeated hospitalizations, often referred to as the revolving door syndrome. They're in and out of hospital repeatedly. One of the benefits of coming in and out of hospitals is that you lose your rental income. We wonder whether people with a psychiatric disability will find themselves in situations in which they are regularly being asked to pay rent increases well above rent control guidelines.

There's a reference in the document to the possibilities of individuals negotiating for new rents. People with psychiatric disabilities, regardless of whatever label they've been targeted with, suffer from two things: lack of self-esteem and self-confidence. I don't believe they're going to do very well in negotiating with landlords around rental increases. Can they expect to pay an even more disproportionate portion of their income for housing?

We understand it's the intention of the current government to implement a guaranteed income supplement for seniors and people with disability. The absence of rent control introduces the very real danger of providing a secure income on the one hand and seeing a disproportionate loss of that supplement to rental costs on the other.

With respect to the Landlord and Tenant Act, we appreciate the commitment of those aspects of the current legislation which continue to protect the rights of both landlords and tenants, including notice to terminate, the requirement for reasonable grounds for the termination of tenancy and the tenant's right to privacy. We support changes to the act, especially the establishment of an

enforcement unit to investigate complaints, an increase in fines for harassment and the fast-tracking of such investigations, although we do have some concern about the fast-tracking of such investigations with respect to vulnerable adults who may have difficulty defending themselves.

With respect to the dispute resolution system, we agree that the current dispute resolution system which adjudicates rent control matters within the housing ministry and landlord and tenant matters within the court system is complex and slow and problematic. We endorse the establishment of a dispute resolution system that is indeed at arm's length from government and includes the balanced representation of both landlords and tenants.

With respect to security of tenure and conversions, the housing protection section of the package proposes to eliminate the requirement to have property owners seek municipal approval when seeking to convert rental properties to condominiums or cooperatives.

We are gravely concerned with the potential for current rental housing stock to be converted to other uses, or in some cases to be demolished to make room for other kinds of projects. According to Paul Carling, a leading expert in community mental health in Vermont, when property owners in various parts of the US no longer were provided subsidies to rent to low-income tenants and were allowed to convert properties to other uses, "affordable housing declined so sharply that only about 10% of the affordable housing stock lost to those trends has been replaced." We ask you to rethink and relook at this issue.

The Lampert report recognizes that new private rental units will target the high end of the market, resulting in higher than average rents.

With the termination of the non-profit programs, the gradual elimination of rent controls and the absence of a rent supplement program, people on low income, including seniors and the disabled, will be destined to either spend too much of their income on rental housing or be forced to live in substandard housing. Substandard housing in Thunder Bay is a real problem. There are a number of places known throughout the community that are easily identified, a number of rooming houses, in which a variety of people, including the psychiatrically disabled, live, on both sides of town.

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Care homes: We are pleased to see the renewed commitment to continue support for rent control in care homes. As previously stated, we are concerned with the section of the proposal which will eliminate rent control for units vacated in care facilities. Individuals on fixed income need the protection of rent control.

We strongly urge you to consider what mechanisms could be put in place to monitor tenant protection issues in care homes. Minimally, we think you need to be doing some education if you're going to provide that kind of protection in care homes.

Many individuals living in care homes may be vulnerable and have limited capacity to advocate for themselves in areas such as negotiation of fair rent. How will their concerns be heard? Can this be an additional role to be assigned to the dispute resolution system?



Much of the proposed tenant protection package has the potential to significantly meet the ministry's goal of increased tenant protection from evictions and harassment. We fully appreciate the inclusion of increased property maintenance standards and the proposed dispute resolution.

We believe the discussion paper falls short in two areas.

Specifically, the proposal relative to protection from unfair rental increases will eventually lead to the elimination of rent controls and lead to both a lack of affordable housing and an ensuing disproportionate payment of rental income for Ontario's working poor and disadvantaged.

We are also concerned that changes to those sections of the rental housing act restricting conversions, renovations and demolitions will lead to significant reductions in affordable rental housing.

For individuals suffering from psychiatric disabilities, decent affordable housing is critical to their rehabilitation and subsequent return to full citizenship. We urge you to consider the concerns we have raised and to ensure the necessary changes which will indeed create legislation providing full protection to tenants.

The Canadian Mental Health Association, in closing, would like to thank the Ministry of Municipal Affairs and Housing for the opportunity to respond to the proposed tenant protection legislation.

**Mr McLeod:** One of the challenges, obviously, that pervades your paper is, how do you find affordable housing for people in lower-income areas and particularly those who are living on disability pensions? I come back to a continuing challenge of the inability of psychiatric patients and former psychiatric patients to be able to find housing even in a community like ours. I hear it in every community I visit, and it goes back to 1973 and the deinstitutionalization. We've never seemed to be able to respond to the housing problems that created, and as you know, we're facing a potential for another loss of psychiatric beds in our community.

Could you say, based on the people you're working with — you've been facing these challenges for some years — in a community with a vacancy rate of 6%, why is it still so hard in this community for those with psychiatric disabilities to find suitable accommodation?

**Mr Fortin:** There are probably a number of reasons. I guess one of the major reasons still, unfortunately, is the issue of stigma. For a variety of reasons, people with a psychiatric disability from time to time are identifiable. Perhaps that's a result of side-effects from medication. Perhaps it's a very unstable housing record: "Who was your last landlord? Where did you live last?" Certainly they have struggles in finding rental accommodation. It's unfortunate; in the past month they've just announced the loss of the housing coordination program, which is a meagre \$40,000 funded community partners program under the Ministry of Municipal Affairs and Housing. It was one of the services we were able to use because they kept a list of how much rent costs, and addresses and names of landlords who would indeed take on people with psychiatric disabilities, among others.

In short, I think it's going to get harder, not easier. We were starting to see a little light at the end of the tunnel

because we were seeing more and more rent-geared-to-income properties and rental units being constructed by the various non-profits and we were pretty excited about where that was going. But as you know, a moratorium has been placed on that and that's no longer happening. Really, I'm not very optimistic or hopeful about the housing situation improving for people with psychiatric disabilities.

**Mr Marchese:** Thank you, Mr Fortin. The point you make at the end where you urge the government to create legislation providing full protection for tenants is a good urging of the government. Even if they provided some protection, it wouldn't be so bad. If ever they would go to full protection, that would even be better.

But you raise the concern around harassment, and you say that the measures they are talking about are good. On the other hand, you know very well that vulnerable people have many problems dealing with this particular issue. Do you anticipate that a senior citizen or a person with a mental illness somehow would be able to deal with a landlord that mistreats them? How would they ever prove harassment if that were to be an issue?

**Mr Fortin:** That's a very good question, and I think it goes back to a couple of statements I made earlier about some concern specifically within the care homes. You need to find some mechanism, whether it's through the dispute resolution system, whether it's through a tribunal, not only to be available to accept those concerns but to actively solicit those concerns either by making that part of the job, in an advocacy sort of sense, of the tribunal, because if people are not going out and soliciting, I do not see vulnerable adults, whether they be seniors or people with a psychiatric disability, soliciting help for that. They will do whatever they need to do; they'll pay the rent and they'll be quiet.

**Mr Marchese:** Mr Fortin, part of the problem is that we're in an era of declining resources, particularly from this government. You're talking about asking the government to be proactive. I'm not sure that's ever going to happen. When they're cutting people, that certainly is not going to happen.

In terms of your suggestion of a dispute resolution system, I support the court system in general because they are more likely to be neutral in terms of the decisions they make. But if this government decides to do that, hopefully it will be at arm's length. I'm not sure how the whole appointments process is going to be neutral.

You make a good point about Monsieur Carling in Vermont raising this particular concern. "Various parts of the US no longer were provided subsidies to rent to low-income tenants and were allowed to convert properties to other uses," and what happened is that "affordable housing declined so sharply that only about 10% of the affordable housing stock lost to those trends has been replaced." That's a very good concern that is being stated, and you're citing a man obviously who has a great deal of knowledge in this regard.

When you add to that the Rental Housing Protection Act that's gone and the government no longer building and the private sector saying, "We're not going to do it unless you give us a hell of a law," we have a problem. Don't you agree?



**Mr Fortin:** Yes, I would agree. I think we have a serious problem that's only going to get worse, and we need to do something about it. We have a number of problems here: We're going to lose rent control; I'm not sure that you're committed to rent supplement for market rents; and the moratorium, we believe, is the death knell for non-profit housing. For vulnerable adults and the working poor, I see the situation getting only worse.

**Mr Smith:** Thank you for your presentation. Mr Marchese sort of brushed across the issue of dispute resolution quickly, and I want to come back to that for a moment if I could, because we, as a committee, have heard a lot of technical input on that particular section of the paper. You recognize that there are complexities and a great deal of delay within the current system. Have you given any thought as to whether or not mandatory or voluntary mediation should be a part of the process up front, before the court system kicks in?

**Mr Fortin:** I haven't given a lot of thought to it, but I guess I would answer the question this way: I think there's a lot of lead work that would need to be done before that decision is made. The paper raises a number of questions about a tribunal, an appointment system, whether indeed it would be at arm's length. I think those are the kinds of questions that need to be answered first in order to determine whether you could indeed establish a fair and equitable tribunal to deal with those kinds of situations.

**Mr Smith:** Thank you for the answer. Do you see mediation being an effective tool, based on your personal experience and the experience you've had with your clients?

**Mr Fortin:** I think mediation has a very real potential to work very effectively and keep us out of a system, whatever system, whether it's the court system or where it's lengthy, burdened down with all kinds of paper. I think there is a potential for mediation to be effective, again given there is equitable representation of various stakeholders, one that's at arm's length from government and not seen to be a part of government. I think the potential is there, provided a number of key things are put in place.

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**The Chair:** Mr Maves, you've got 45 seconds.

**Mr Maves:** Quickly, do the Canadian Mental Health Association and your branch, the Thunder Bay branch, have many discussions with landlords to explain psychiatric disabilities or, maybe if someone's trying to rent an apartment and having difficulties, call the landlord and explain the situation to them? Does that happen very often?

**Mr Fortin:** Yes, it has happened in some cases. We have worked effectively with the local regional office of the Ministry of Municipal Affairs and Housing when there are rent supplements, trying to get in to landlords and talk to them about the possibilities of taking on some of our tenants, talking about who people with psychiatric disabilities are and who they aren't and trying to do some work so that they really understand what it is they're working with. In some cases, that's worked very well for us.

**The Chair:** Thank you, Mr Fortin. We appreciate your input into our process this morning.

## HOUSING ACCESS THUNDER BAY

**The Chair:** Our next presenter is Sandy Parsons, representing Housing Access Thunder Bay. Good morning, Mrs Parsons. Welcome to our committee.

**Mrs Sandy Parsons:** I work at the Lutheran Community Care Centre. That's a social service agency in Thunder Bay. Right now I hold the position of housing access worker with Housing Access Thunder Bay; that's a program that helps individuals in the community find housing. I've also worked as a social worker with individuals who are developmentally handicapped. So I have had experience with trying to help them find housing as well and worked with landlords. In the position I hold now, as I said, I do help individuals find housing. So I'm here basically to talk about the main issue that I have with the proposed changes: the fact that landlords may be able to increase the rent once a tenant moves out.

Right now in Thunder Bay housing is quite expensive. I don't know exactly what it is compared to some of the other cities. I work with a lot of individuals who have special needs. I work with a lot of single moms, families on assistance, the developmentally handicapped, individuals who have psychiatric illnesses. Sometimes for them it is difficult to find housing that is affordable, because they are on assistance. I work with individuals from crisis housing, the emergency shelter. They seem to have a real difficulty finding housing that is adequate as well as affordable. I found that a lot of single mothers, for example, if they have two children, initially they are looking for a three-bedroom apartment, and in a lot of cases they realize that they just aren't able to manage that financially. We're finding that people are going to, for example, a two-bedroom. So they're having to make do.

The issue with landlords increasing the rent, I think that might put some individuals more at risk. I certainly have worked with clients who may have been in a situation with a landlord and because they have special needs sometimes the landlords get overly involved. At times, I've certainly seen that landlords have taken advantage of individuals. My concern is that if someone is in a tenancy with a landlord and they realize that they have a good rent but there might be some issues going on that they're not really comfortable with between them and the landlord, they might be afraid to move out, because they know that the rents are quite a bit higher.

**The Chair:** Okay. Ready for some questions?

**Mrs Parsons:** Sure.

**The Chair:** We've got about five minutes per caucus, beginning with Mr Marchese.

**Mr Marchese:** Thank you, Mrs Parsons, for your ongoing advocacy work in the field. We certainly need advocates and people who are there to support people who are more vulnerable in society. Without that, we'd be in worse shape.

Several things: We build housing, non-profit and cooperative housing, to address and to accommodate the various needs of people. What we did in cooperative housing in particular is to build in the various ranges of incomes but also to make sure that the people with disabilities and people with HIV, for example, would be part of that community, and so I'm responding quickly to



your sense of making sure that we find or that we build accommodation that's both adequate and affordable. Sometimes we don't take that into account, so that even if we don't have a problem of affordability, we still have a problem of adequate accommodation.

Do you think that if the private sector were to build that somehow they would build with people with disabilities in mind or people with HIV for example? Do you think that is likely to happen if we let the private sector take care of all of these things?

**Mrs Parsons:** I guess from my experience and dealing with landlords, and I don't like to categorize people, but it's almost like some landlords want the ideal tenant. They want a tenant who is working, has a steady income. If someone is coming from crisis housing, for instance, they want to know is there an ex or a boyfriend who is going to stalk them, who is going to come into their apartment and destroy the place. There are some landlords certainly who are willing to look at individuals who are more vulnerable, who do have special needs, but again, when I was working directly with developmentally handicapped and I was trying to help them find accommodation, there were a lot of questions, and it's really difficult because you want to be honest, but you don't need to go into your whole history with a landlord. I just found that sometimes it's more difficult for individuals to find affordable as well as adequate housing with the private sector.

**Mr Marchese:** My sense is it's going to get worse. As we create a crisis where there's going to be a shortage of housing, it will make it much worse for the people you were just describing.

**Mrs Parsons:** Yes.

**Mr Marchese:** On the issue of mobility, once tenants learn that if they move they're likely to get into another situation where the rent is going to go up, is it not true, as many have said, that those in abusive situations are likely to think twice about whether or not they can do that or should do that?

**Mrs Parsons:** Yes, because if an individual is in an abusive situation, it is certainly difficult for them to leave if someone realizes, "If I move out, my rent is going to be much higher; maybe I'll just stay where I am and just put up with what I have to deal with," which is really sad, because our job as social workers is to help empower people so that they are able to get out of those types of situations, but they certainly do exist. As I said, landlords do sometimes — I've seen it in the past where they have taken advantage of clients and they've controlled their money and it's totally beyond their role, but it does happen.

The other issue is that if somebody is in a housing situation and they move out but they need something that is accessible, it is very difficult to find accessible housing in Thunder Bay. I've certainly had clients who have been in wheelchairs who have had to climb up stairs to get to their apartments, and then when they have come to me for help finding housing, finding everything that they are looking for as far as the main floor or a place with an elevator that is in an adequate area of town, where the rent is affordable, within their means, because they are on assistance, it is very, very difficult. I've had people

having to wait months, five or six months, trying to find something like that.

**Mr John L. Parker (York East):** Thank you for your presentation, Mrs Parsons. I represent the riding of York East. That's an urban Toronto riding. We have a great many residential tenants in my riding. I have a large number of high-rise buildings in my riding. Many of those buildings are quite old now. There are no new rental buildings in my riding. Many of the rental buildings in my riding are in serious need of maintenance and repair. There have been occasions where people have suffered injury as a result of the disrepair of some of the buildings.

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I asked to be put on this committee as part of my personal search for some solutions to the problems. I'm looking for answers; I'm looking for ways out of the problems that we have now; I'm looking for better ways into the future. I'm also concerned about how we're going to house people in the future, how we're going to find accommodation for them to live in, not enough just to protect people today — I want to protect people today — but we also have to find a way to house our increasing population into the future. It's not enough for me just to answer today's problems now. We have to look to the future and anticipate tomorrow's problems and address those.

Under the current regime we have the situation I just described to you, and the vacancy rate in Toronto is nothing as enviable as it appears to be in Thunder Bay. In Thunder Bay you appear to have quite a comfortable margin of vacancy, but in Toronto that's not the case. It's tight and tenants feel quite exposed under the current regime. There's no place for them to turn, no place for them to go if they're unhappy with their current situation.

Can you help us with solutions to that problem? Do you have any suggestions as to how we can go forward and address the problems we face right now?

**Mrs Parsons:** I realize that in Toronto there is a need for affordable housing. In Thunder Bay I see a lot of individuals, some homeless, who don't have anyplace to go. The population I sometimes work with, maybe their money skills are not as good as yours or mine, so if they are alone and they don't have a lot of support services, they might spend a good portion of their cheque and they don't have rent money. That is why we find that some individuals are having to go to our emergency shelter.

Looking down the road at the future, I think the problem is just going to continue. There certainly is non-profit housing, rent geared to income for individuals, but the reality is that they have a very long waiting list. I had someone a few days ago telling me that they'll be waiting maybe five years to get into affordable housing. I think the issue is just going to continue to get worse because there just are not a lot of places out there that are affordable. I don't think necessarily that's the fault of landlords. They certainly have to pay the mortgage on their building.

I've seen places in Thunder Bay that sometimes are not adequately kept. I've gone into some rooming houses in various parts of town, and it's amazing that people can actually live in that type of environment. A lot of times



we go home to our nice houses and don't really realize some of the conditions that other people live in. They either feel trapped or dependent emotionally on the landlord or they just can't get out of that situation, so they learn that they have to put up with conditions that are substandard.

**Mr Parker:** I share your concern for vulnerable people and for people who need protection. I'm not sure that includes all tenants, however, and I'll give you an example.

One phenomenon I see — I don't know if it's on the increase, but I'm certainly aware that it's quite substantial — is well-to-do people, people who can afford their own homes, people who have their own homes who either choose not to live in their own home or choose to sell their home, take a rental apartment and get the advantages the current tenant protection and rent control laws give them. Then they put the money into a home in the country or a condo in Florida or something like that and get the same benefits and protection from the laws that we are trying to direct towards those in need. I don't know that we want to give them the benefit of that protection.

Can you give us some guidance on how we can direct our assistance to people who need it and not see it spill over to people who frankly don't need it?

**Mrs Parsons:** We have to be careful when we classify people and say these are deserving individuals and these are non-deserving. Protection is for everyone; it is not just for vulnerable individuals. Anyone renting an apartment or a house has the same rights and responsibilities as individuals who are more vulnerable. When I was renting an apartment before I bought my house, even though I had the knowledge and the skills and the information, I wanted to know that those laws and guidelines protected me as well as individuals who have special needs or are more vulnerable. I would want to know that security exists too. It's our responsibility to not necessarily classify individuals who are more vulnerable and say that "normal people" don't have these rights but more vulnerable people do.

**The Chair:** Thank you very much. Mr Parker, I want you to know I've given you back that time I cheated you out of earlier.

**Mr Sergio:** I thought you were taking it off my time.

Mrs Parsons, thanks for coming to present to us. A lot has been said about the 6% vacancy rate here in Thunder Bay. Why 6%? Can it be that people just can't afford the rent of those units or just can't afford a high rent, regardless of the 6% vacancy rate?

**Mrs Parsons:** Yes, I know it is 6% and I don't really know that this is necessarily accurate as far as looking at people's lives is concerned. Numbers are really good, but when you start looking at individual lives and you sit down and talk to them I think it's very different. I have seen that people are really struggling.

The program I presently run at Lutheran Community Care Centre/Housing Access Thunder Bay will be completed or stopped on Friday because of funding cutbacks, so that will have an impact as well. I served as an advocate and as almost a go-between for clients and landlords, and now that isn't going to be there for individuals. I've

seen that people need that kind of intervention. I've had a lot of people come to me and say: "I don't really think it is right that my basement apartment gets flooded and that there are things hanging from my ceilings when my two-year-old daughter is trying to get in. Is that right?" Then I would help them to fix some of those things with the landlord. So yes, even though it looks like 6% really isn't that much, I think that affordable housing, adequate housing is certainly lacking.

**Mr Sergio:** Just for your knowledge, we were told this morning that there is a waiting period of probably a few months for really affordable accommodation. In Toronto we are talking about a four- or five-year waiting period, so you can imagine the demand.

Let me ask you another question. We have been told that we need some fine-tuning with respect to legislation in the area of tenant-landlord disputes. The government is thinking of putting in some new system. We were told this morning, for example, by a previous deputant that the system should be an arm's-length system. In your view, do you feel that every board and commission is practically filled with parties' friends or appointments, stuff like that? Do you think this would be a good thing to have, and how should it be formed to be really at arm's length to be efficient?

**Mrs Parsons:** Tenants need to feel comfortable in using a system they can access where they don't feel intimidated. A lot of individuals I have worked with who have had major concerns I've certainly referred to landlord-tenant people and made suggestions about going to court, either trying to get their money back or whatever the situation is. Most times, usually about eight out of 10 times, people are too intimidated to follow through with that. I think a system has to be developed where people feel more comfortable, where they don't feel threatened, and they do want to exercise their rights.

**The Chair:** Thank you, Ms Parsons. We appreciate your attending with us today and being part of the process.

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## JOHN STREET TENANT ASSOCIATION

**The Chair:** Our next delegation is from the John Street Tenant Association, Teuvo Helenius and Tracy Crosson. Good morning. Welcome to our committee.

**Mr Teuvo Helenius:** Thank you. Welcome to Thunder Bay. This brief is being submitted on behalf of the John Street Tenant Association, which represents 46 units, not 45. I'm Teuvo Helenius, a volunteer with the association, and I am with Tracy Crosson, the current chair of the association.

John Street Tenant Association is a housing venture with 46 units which are listed with the Thunder Bay District Housing Authority. We are considered to be in a low-rental building. The association has been active over the years in keeping our tenants advised on issues that relate to them. We have, through our own resources, provided workshops on budgeting on less than \$12,000 per year and strategies to make our neighbourhoods safe and free of discrimination and violence.

The provincial government, with its discussion paper *New Directions*, is planning to attack tenant rights to the



core. This is why we have decided to come and speak today. Premier Harris has been quoted as saying, "No tenants will have their rents go up any more under the system we're proposing than under the current system." We wish that this statement proves to be true.

With what is being termed as vacancy decontrol, how can rents go anywhere but up? Vacancy decontrol will allow landlords to increase rent to whatever the market will bear when tenants move from their current units. Landlords will also be allowed to apply for an above-guideline rent increase because it was, for example, an unusually cold year and the utility costs increased. Tenants will not be able to apply for a rent reduction the following year, when utility costs go back to their normal levels. This will create additional fixed costs that will be borne by tenants, which here in the north is quite possible and in fact probable.

The government's own study, the Lampert report, outlines that 25% of tenants move every year. The study also estimates that over a five-year period about 70% of all tenants move at least once. Effectively this means that over five years, 70% of all units in Ontario will have their rents decontrolled. For tenants who stay in their units, the availability of affordable housing will diminish as the majority of units will have been decontrolled. This will in reality force tenants to consider carefully whether or not to move. If landlords are getting rents they feel are below the current market value, they must get current tenants to move so the rents can then be adjusted to whatever the market will bear. This undoubtedly will lead in certain cases to the tenant having to choose between harassment for staying in the unit and going into the new rental marketplace to look for affordable housing.

Tenant-landlord relations in this province will definitely suffer as a result of this proposed legislation.

The government's proposed anti-harassment unit to deal with harassment to tenants will definitely have its work cut out for it. The possibilities of illegal harassment to get the tenant to move will increase significantly. To deal with this possibility, the government is looking at creating another entity to deal with harassment while at the same time it is eliminating the rent registry office, which is considered a valued service especially by those tenants who do not belong to an organized tenants' association. We wonder if tenants will follow up on harassment claims or simply look for another apartment in the now decontrolled market.

In our community, we are seeing crucial cuts of services and programs to tenants. Most recently, Lutheran Community Care Centre's housing program has been defunded. This service was vital to all tenants looking for reasonable housing, but especially to those tenants who face additional barriers. This was a place where, regardless of age, source of income, amount of income, racial heritage, ethnicity, sex or religion, services were provided to help these individuals locate affordable housing.

In my personal, paid job as a counsellor for youth, this housing registry was the prime source of information for young people to find affordable, updated housing. The updated referral listings of affordable housing in the district of Thunder Bay were a valuable resource to young people looking for their first apartment, and this service was provided free of charge.

Where are these individuals to turn now? Is the government expecting current and existing resources to provide this service when these organizations have already made changes due to declining financial resources? It seems we will be expecting organizations such as Shelter House to further increase their workload to deal with the rising client loads they will invariably see in helping people find suitable and affordable housing. Like all services, they are facing financial hardship, and to expect them to do more with less is unrealistic.

Another cost that is incurred by the tenant surfaces from the Rent Control Act's guidelines in reference to maintenance and capital repair work. Currently the landlord must show that when he or she applies for an above-guideline increase based on capital repair, the 2% has been spent on capital repairs. Under the government's proposed plan, this 2% will not have to be accounted for.

The government believes that the current system does not provide any incentive for landlords to put investment into maintenance of their buildings. Under proposed changes, municipalities will be given new powers to punish landlords who do not do repairs on their buildings. The problem is that our municipal government is already dealing with a shortage of inspectors who give out work orders and ensure that work orders are being carried out. This is just proposing that the problem be transferred from the province to the municipality. The province would therefore lose some of its responsibility when it comes to ensuring safe, affordable housing. To expect that each municipality treat the work orders in the same manner, with the financial hardships of municipalities across Ontario, and especially in northern Ontario, is totally unrealistic.

It also appears possible to increase the rent if a tenant has moved from a unit that is in disrepair without the work ever getting done. If this is the case, then the landlord has a choice between doing repairs that may be very costly or getting the tenant to decide to move out and then possibly not do the repairs and re-rent the unit at a higher rent.

The government is proposing to change the Landlord and Tenant Act to "give both the landlord and tenant improved ability to enforce their rights." We do not see how this proposal improves the rights of tenants.

With respect to the current right of assignment of lease, the landlord will have complete power to approve or disapprove the sublet, and if a higher rent can be obtained, the chance of being allowed to sublet will decrease significantly.

In respect to a tenant who has decided to move to another unit or apartment and has given notice of termination, the proposal seems to allow unlimited access to the landlord to show the unit to prospective tenants. This means that all privacy is forsaken. Would the tenant then be eligible to file harassment charges should they feel that the disruption to their lives is not warranted?

As to the question whether tenants should be paid interest on their last month's rent deposit, we feel that fair market value interest should be paid annually to the tenant as this is his or her asset which, if the tenant is not moving out, is being used by the landlord for their own purposes.



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With respect to the proposed new dispute resolution system, we are in favour of a system that ensures quick, efficient and fair decisions. We understand that the ministry has not yet developed a proposal for the new dispute resolution system. We feel that under any new system the tribunal decision-makers must be neutral and not political appointments made by the government of the day.

The idea of introducing application fees to initiate a dispute application may recover some of the costs but would be another difficult burden for some tenants to face as their finances are already stretched to the limit.

This tribunal, to initiate and get operational, is not necessarily cost-effective. It seems the mediators who would be required before it goes to an adjudicator must be carefully selected to ensure fairness. Decisions that arise where dollars are awarded will probably still require the courts to ensure compliance.

The proposal speaks of security of tenure and conversions; in the same breath, it proposes to end the Rental Housing Protection Act. This will allow a much easier process for rental units to be converted to use as condominiums. The protection will change from protecting the unit to protecting the sitting tenant. As more and more rental units disappear and turn into condominiums, the availability of rental stock will disappear. With declining units for rent, this will definitely increase the demand for rental units while at the same time not increase the supply of these units, so the price of each unit, according to demand-supply economics, will increase. Many tenants in these conversions will not be in the position to purchase the new unit as a condominium because of an inability to secure the needed funds.

The proposal as it relates to care homes leaves the residents with less of a right to privacy and provides a quick method of eviction for these tenants. The care home operator will be allowed to enter the resident's unit to provide care or perform bed checks if the tenant agrees to this. Why do these tenants receive less protection under the law?

Here in our city of Thunder Bay government cutbacks to primary health care facilities such as Pioneer Ridge, Alpha Court, Canadian Mental Health Association Services and Lakehead Psychiatric Hospital have created a sense of fear in the community due in part to decreasing residence spaces. Clients from these centres face further obstacles when forced to leave these facilities. Housing becomes an issue due in part to the lack of information and advocacy these residents so dearly need. Here is where services such as Shelter House will be expected to house and provide ongoing support for these residents. Problems arise when we look at the number of people served and the availability of bed spaces at this facility.

Some of the residents may not have any family or next of kin in Thunder Bay, yet the philosophy of our current provincial government transfers the care of the residents back to the family. Who is going to care for the residents who have no immediate support? Also, are the families now going to be expected to support financially and socially these residents when the cost of living and unemployment are all very high? Is the government going to subsidize these families and individuals to care for the residents?

Recent studies have also stated that having a family member who requires ongoing support can be very taxing emotionally, spiritually and financially to the family. In most cases, the studies have further illustrated a precipitation of psychological, verbal and physical abuse to the residents who have been forced to move back into the family home because of changing dynamics within the family itself. Who is going to protect the rights of the tenants who have been forced to move back into the family home due to recent cutbacks?

Other sectors of the population that we feel are going to be affected are single parents, individuals on Gains, youth and general welfare recipients. We feel they are facing two dilemmas, the first one being the requirement here in Thunder Bay to have proof of residency to be eligible for social assistance. Problems will arise in securing housing due in part to the lack of available affordable housing. The second one is the allocation of funds through the Ministry of Community and Social Services. Here the provision of the housing allowance is at a ceiling of \$325 per month, which makes it extremely difficult locally to secure anything more than a room or shared accommodation. If we are talking about quality of life, the tenant has to use more of the income supplement to secure affordable and adequate housing. It is not uncommon to have the tenant pay more than 50% of their monthly income just to have a roof over their head.

Surprisingly enough, what we believe to be an inherent component of one's basic living is now becoming an issue facing tenants which we are going to have to be prepared to fight for.

As an advocate on youth issues, I am aware of the problems facing our young people. Those between the ages of 16 and 18 are not eligible to collect social assistance and their choices for housing are very limited. If they cannot support themselves by their own resources, they will be forced to live with whoever will accept them. Sometimes these young people can move back into a family home, but when this is not a possibility they must do whatever it takes to survive. If anyone has spent a winter here in Thunder Bay, they will quickly realize that the climate is not very hospitable for those with no residency.

In Thunder Bay, we see a trend in the housing sector. Areas such as the east end-Simpson Street, County Park, Limbrick-James and Bay-Secord have changed from first-generation family dwellings to rental units. With more people demanding affordable housing in these areas it is creating a demand on rental units such that, with the elimination of rent control for vacant units, the price of these rental units will no longer be affordable and the tenants will be forced to move or pay the new price, if they are able to do so.

In conclusion, the proposed legislation does little to ensure the stock of rental units. It takes away tenant rights to affordable housing and severely restricts the services that have kept tenants informed of their rights. This government must be reminded that as northerners we deserve the same access to services as anywhere else in the province. We do not have a tenant federation here as of yet to keep tenants informed and educated. We are being asked to do more with less, but we are already stretched to the limit.



In addition to these hardships, many of the services which tenants could access in regard to housing issues have been cut or have already disappeared. Here it is not a possible solution to live on the streets over the winter as it seems to be in some places. To continue living here, one does need to be housed on a continuous basis, and the resources to see this happen are quickly disappearing.

At one time, unemployment in this province and country was a sociological issue we felt was an ill of our society, not a mainstay of our economy. Recently, the federal government has changed its economic priorities to control inflation and interest rates as opposed to the rate of unemployment. What this has done is make unemployment — or more appropriately, the unemployed — a tool of this inflation and interest control fight. Now an unemployment rate of close to 10% is normal and even accepted. To keep inflation and interest rates in check, an unemployment rate of nearly 10% ensures market control of wages and definitely affects people's negotiating capabilities because there is a lot of fear of job loss.

It may also be true that this provincial government is looking at the housing market in the same manner. With rents being decontrolled in the vacant units, and no other forms of limiting rent increases on these units, it may be left up to the marketplace to determine what is a fair rent. If this is the case, we will soon be discussing the homelessness rate, as this would be the market factor that limits what can be charged for fair market rent. It will no longer be an inherent right to have housing.

To close, we would like to comment on this process of being allowed to have our input heard. We, as tenants of Thunder Bay, have never as of yet been contacted in regard to changes in legislation that affect renters, so this is the first opportunity we have had to comment on these proposed changes. We feel that the time frame for this consultation is very short and therefore limits the opportunity for all tenants to have their voices heard. We believe those most affected by this proposed legislation have been given the least opportunity to speak in their own behalf. This particular location for the consultation is not close to most tenants in this city. To us, it is clear that the government is not really interested in the opinion of all tenants and is using the process to fast-track the proposed legislation.

We hope that the government listens to our concern and uses this consultation as the beginning, not the ending, of the consultative process. The proposed legislative changes will affect many people who live in Ontario currently, and even those who do not live here as of yet. We firmly believe that before changes are implemented, and then people forced to live with the changes, the government is well advised to continue to consult tenants across the province.

**The Chair:** Thank you. Basically, you've used up all but a minute of your allotted time, so there's really no effective time for questioning. Did you have a final comment you wanted to make?

**Mr Helenius:** No, I think our paper says it all.

**The Chair:** Thank you very much. We appreciate your interest in our process and your input this morning.

We are now recessed until 1 o'clock.

*The committee recessed from 1159 to 1303.*

## RAINY RIVER DISTRICT COMMUNITY LEGAL CLINIC

**The Chair:** Good afternoon, ladies and gentlemen. Our first presenter this afternoon is Sally Burns from the Rainy River District Community Legal Clinic. Welcome, Ms Burns. We appreciate your being here today.

**Ms Sally Burns:** How do you do? My name is Sally Burns. I'm from the Rainy River District Community Legal Clinic and I'm a community legal worker there. I'm presenting this submission on behalf of Mr Koprowski, our executive director, who prepared it but was unable to attend today.

We are making this submission on behalf of the many people who live in the Rainy River district of Ontario who seek our assistance at the Rainy River District Community Legal Clinic in Fort Frances and in the satellite office in Atikokan. Our clinic is one of about 70 in the province whose staff provide legal advice and assistance to the poor and disadvantaged people of our province: those who cannot afford to retain a lawyer privately and whose legal issues very often do not qualify them to apply for a legal aid certificate under the Ontario legal aid plan. Many of these people are tenants, more often than not because of the fact that they simply cannot afford to purchase and maintain their own residence, and who often are just barely able to afford their current rental accommodation.

Although Mr Koprowski was not able to attend before this committee in person, he did write this submission, and we at our clinic felt strongly that the proposed legislation was of significant importance to have me come and address this committee.

We understand, from having read the government discussion paper, that the proposed Tenant Protection Act is intended to consolidate six pieces of legislation, including the Rent Control Act, and is also intended to remove the hearing of landlord and tenant disputes from the current judicial process. Although it is difficult to know exactly what issues these submissions should deal with, because we have not actually seen any of the draft legislation, nevertheless I wish to focus on two matters today; namely, the rent control provisions of the proposed legislation and the establishment of an administrative tribunal to deal with landlord and tenant disputes.

On rent control: The news release dated June 25, 1996, and the discussion paper both state that when a tenant moves out of an apartment the landlord will be free to set a new rent with the new tenant, the so-called market rate rental. Once the new rent is set, the new tenant will be protected by rent control. Rent control will still apply to tenants who remain in their current rental premises, which I can only assume to mean those premises that they are living in at the time the proposed legislation actually becomes law in the province. I can also only assume that though it is "apartment" that is referred to in the news release and discussion paper, this proposal on rent control will also apply to mobile homes in mobile home parks and houses that are rented premises as well.

The material also states, "For tenants, choice...is as important an issue as rent control or maintenance." Despite this statement, we have a major concern: The fact



is that the likely result of these proposals will be that the landlord will be in a better position to set a higher rate of rent than our clients can pay simply by virtue of the landlord's superior bargaining power and by the fact that it is very likely that there will simply be available to the landlord other tenants who are better able to afford the rent. These will, in all probability, be those tenants who are not on social assistance or who are not unemployed or who are not receiving benefits under the Workers' Compensation Act of Ontario and who will consequently be better able to pay the higher rent.

Some of our clients have already had to leave their rental units simply by virtue of the fact that the current amount of the shelter allowance portion of their benefits under the Family Benefits Act and the General Welfare Assistance Act does not even match their current monthly rent amount as a result of the changes in the allowance which came about on October 1, 1995. How much more difficult a time will they have to make their rental payments if the landlord can negotiate market rents which will be significantly higher than current rents when the tenant moves to new premises? If the tenants cannot move for fear of being unable to afford the higher market rent, then they must remain where they are, regardless of whether they might have to move to find a job or because of the poor condition of their units. If they are forced to remain because of their inability to pay possibly higher rents, then where is their opportunity for choice?

The ability to change market rents on turnover of apartments will be a window of opportunity for landlords but a dead end for many of our clientele. For those tenants who cannot afford a higher rent, they will be virtual prisoners of the premises they are living in if the legislation is passed as proposed.

In the discussion paper it is also stated, "There are many aspects of rent control that work — those we will not change." But what aspects are considered to work, and for whom? We have found in our line of work that rent control — that is, the limitation of rent increases — in fact works, and works well, for our low-income clients. If rent control works, why change it to allow the imposition of market value rents to incoming tenants? Is it the concern that rent control does not work for landlords? Is that the reason market rents can be charged? Granted, I understand that rent control will also be applied to the market rental amount after it is set, but what good is rent control for our clients at that stage when they probably won't be able to afford the market rent in the first place?

Some people also probably won't be able to afford accommodation in newly constructed units because it is proposed, according to the discussion paper, that rent guidelines will not apply to new construction.

If rent at market rates can be imposed on vacant units, will there be any corresponding increases to the amount of the shelter allowance permitted to tenants who are receiving benefits under the Family Benefits Act and the General Welfare Assistance Act to at least allow the choice you wish them to have? This would be especially imperative if the number of rent-geared-to-income units is also reduced in the coming years. Market rents and reduction of rent-geared-to-income units would be a double whammy that few, if any, of our clients could

handle financially, and who therefore would be placed into a totally untenable situation. For them, where is the protection in the Tenant Protection Act?

To go on to the dispute resolution system, our second area of concern, we understand that the Tenant Protection Act is intended to replace the current access to the Ontario Court (General Division) in landlord and tenant disputes, with access to an administrative tribunal dealing exclusively with landlord and tenant matters. This reform, according to the discussion paper, is intended to ensure quick, efficient and fair decisions, and to reduce costs.

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In the clinic system, we have a great deal of experience in appearing before administrative tribunals such as the Social Assistance Review Board, rent control officers, the Workers' Compensation Board, the Workers' Compensation Appeals Tribunal, boards of referees and administrative review panels. Although members of those administrative tribunals develop a fair amount of expertise in their particular areas of adjudication, one of the major drawbacks in dealing with these boards, not only here in the northern part of the province but also in other parts of the province as well, is that, first of all, we and our clients often must wait several months, not just days, to even have a hearing scheduled. Significant costs are also expended on just getting the board member or members to the place of the hearing. Secondly, even after the hearing is held, we must often wait several months before we even receive a written decision from the board member or members.

The point is that in landlord and tenant matters, tenants, and even landlords, cannot afford to wait months for a hearing date and then more time after that to receive a decision. Issues such as the need for the landlord to make significant repairs, for the unscrupulous landlord to resume the supply of water and heat to the rented premises, for decisions on whether a tenant must move out of the rented premises or pay an above-the-guideline rent increase, are among those issues that cry out for speedy decision-making while still allowing parties to adequately present their cases.

Currently, we have relatively quick access to judges who sit or who are responsible for hearings in each district or county of this province. The judges are already in position and the facilities in which the cases are heard are already in place. However, if this system is to be replaced, I cannot see how speed in handling disputes can be achieved without having an administrative board member or members also sitting in each county and district of this province. To do otherwise will only leave us with the same problems we now have with the other administrative bodies we have to deal with and which basically are headquartered in Toronto.

Unless such a person or persons can be so placed, then we see absolutely no reason whatsoever to replace our current court system. Any delays that are experienced are not necessarily caused by delays in access to the court system; they are the result of the time periods outlined in the governing landlord and tenant legislation. We are not at all advocating a change in those time periods; we are only suggesting that it is not access to the court system that is the cause of any suspect delays. Any replacement



system would have to seriously address the time element in access and decision-making.

As for the question of costs, the judges are already in place and so are the facilities. If the current judicial process is maintained for hearing landlord and tenant disputes, there will be no increase in cost to the taxpayers of this province as there would be if an entirely new administrative tribunal and staff were set up.

As for the issue of costs or disbursements for the tenant in having the matter heard in court, such costs are either minimal or non-existent already, so that I foresee little or no savings in costs in setting up an entirely new system.

In short, as far as process is concerned — as opposed to time periods set out in the landlord and tenant legislation — the landlord and tenant court is about the fastest court system in Ontario. Why is there such concern in changing it? If anything, this government should just simplify the court forms that have to be filed in landlord and tenant disputes if it is truly interested in speed and cost-effectiveness. It should also have each county and district designate a judge or judges to hear only landlord and tenant disputes. This will solve any uncertainties about expertise, speed and cost-effectiveness.

In conclusion, after having read the entire government discussion paper, I feel that I could take up more time of this session just with our own submissions were we to deal with every matter raised in the paper. However, with the time constraints we have, and having consideration for the likelihood that other groups will deal with these other issues, we wanted to have this committee focus on the two issues we raised today.

I do not feel the procedure for hearing disputes is a problem, subject to the suggestions I made earlier. I also have a great fear for the welfare of many people — not just those who are or who may become our clients — in this province if rent control were amended as this government proposes. The poor we will always have with us; a sensitivity to their plight would surely be the mark of a caring and understanding government.

**Mr Maves:** Thank you for your presentation today. With regard to the dispute resolution system, we have had testimony from folks on all sides of the issue and there has been a substantial amount of support for the existing court system. Some folks have also talked about mediation services which are in place in some communities now and seem to be working quite well and very cheaply and effectively. I wonder if you have any experience with that in this area.

**Ms Burns:** I think it's a good idea. It's quite often a way of getting things solved without getting into the court system, and it can, of course, settle things more quickly because it's usually not the waiting period for the court that there is for the person who's the mediator. We have had people coming around doing pre-trials, and that speeds the whole process as well. Quite often it spurs the parties on to try to solve it themselves.

**Mr Stewart:** Just one comment regarding this. There is not any draft legislation yet. This is strictly a discussion paper, and I want to emphasize that fact.

The other thing I want to mention very quickly is that we're hearing this morning about great waiting lists for

affordable accommodations now. In my mind that says the past legislation hasn't worked either, so should we not be looking at something new to make some of those changes?

**Ms Burns:** Something new is probably necessary, but I think the dispute resolution can be maintained the same way.

**Mrs McLeod:** I commend you for trying to pull together some very separate pieces of the government's housing policy, or non-policy. Unfortunately, in this particular discussion paper we tend to focus only on the rent control, or the loss of rent control, and what you've done is try to put that into the context of the clients you're dealing with. You touched on one issue that I think is really critical when you mentioned that the amount of shelter allowance is not likely to increase to allow your clients to go into the units made available at what would be market rents.

**Ms Burns:** It did, in fact, decrease.

**Mrs McLeod:** Yes. Do you have any idea what kinds of shelter allowance the government would have to be prepared to pay if your clients were able to go into existing rental units at market rates?

**Ms Burns:** I'm from Atikokan, and it's very difficult to relate that to the rest of the province. I do know that some of my clients are in rent-geared-to-income and some aren't and they're on assistance. In Atikokan, rent-geared-to-income can mean rents of \$150, whereas rent in Atikokan can be \$500 or \$600. I imagine it's a higher range we're talking about in Toronto, but it probably shows you the kind of range difference they'd be talking about paying. Otherwise, people would be on the streets trying to live.

**Mrs McLeod:** I think that's the thing. If you relate taking off rent control with no controls over rents, just substituting non-profit housing with a shelter allowance approach, is the shelter allowance really going to be large enough to allow people to go into the existing housing? I think it's critical that those two issues be looked at jointly or it would be a disaster, even for the clients of the government.

**Mr Marchese:** Ms Burns, I'm one person who believes that the present court system is a better system to pursue, that if there are problems there you make the system a little more efficient. To create a tribunal causes several problems: (1) the whole issue of the delays you talked about, which are very likely to be likely, and (2) the whole issue of neutrality in the appointments process. Many of the legal things that have come before this committee have spoken about that particular concern.

The other part I want to ask a question around is that Mr Stewart said: "We have waiting lists, so isn't that a problem? Isn't that an indication that the present system is failing?" So what do they propose? They propose something to help landlords. They want to decontrol the system which transfers money from the tenants to the landlords; they want to get rid of the rent registry, which gives no protection to tenants any longer; they want the Rental Housing Protection Act to be abolished, and for all effective purposes, rental housing accommodation is likely to disappear by and large; and they talked about the legally withholding of money when buildings are in



serious disrepair as something to do away with. All of these are designed to help the landlord, and none, as Mr Lampert said, who wrote the report for the government, is going to create any housing. Do you see anything in this report that's going to make the system better in terms of more housing availability for the working poor, or that there's anything here that helps the tenants?

**Ms Burns:** No, not really.

**The Chair:** Thank you, Ms Burns. We appreciate your interest in our process and your input today.

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### THUNDER BAY COALITION AGAINST POVERTY

**The Chair:** Our next presenter is Christine Mather, coordinator of the Thunder Bay Coalition Against Poverty. Good afternoon, and welcome.

**Ms Chris Mather:** I'm Chris Mather, coordinator for the Thunder Bay Coalition Against Poverty. This is Doug Powell, the treasurer of our board of directors. On my far right is Beulah Besharah, our board president; next to her is Christine Scheibler, one of our food security workers; and next to me is Barb Carignan, one of our most dedicated volunteers.

The Thunder Bay Coalition Against Poverty is a non-profit community organization concerned about the depth and extent of poverty in our community. The majority of our members are people whose incomes fall below the Statistics Canada poverty lines. Many of our members are on some form of social assistance. One of our primary activities is the operation of a food bank at which we serve approximately 400 people a month. It is from our contact with these people and our knowledge of the difficulties they face that our concern about the proposals outlined in Tenant Protection Legislation — New Directions for Discussion arise.

Here I want to make the point that one of the primary responsibilities of Ms Scheibler is to attend the food bank and to solicit poor people's opinions on various issues. That's how we put our stuff together. We go to the poor people; we ask them their opinions. So any members present here today who really are interested in what poor people think, you're getting it.

There is indeed much to be concerned about in the discussion paper. Because of time limits, however, we've chosen to limit the presentations to those issues which were of most concern to the people we serve, people not generally heard by governments.

Concerning the issue of rent control, we have five points to make.

(1) Allowing landlords to increase the rent they charge on a unit once it becomes vacant will lead to a steady increase in rents overall, and this will obviously result in a decrease in the number of homes poor people will be able to afford to rent.

Our members are already experiencing difficulty in paying for appropriate, safe housing. High rents are one of the primary reasons they use our food bank.

(2) If landlords are allowed to increase the rent on vacant units, it will be to their advantage to have a high

turnover of renters and to their disadvantage to maintain positive relationships with their sitting tenants.

The people we serve are already having to change residences an inordinate number of times. At our food bank we regularly hear of single mothers moving two or three times a year in a seemingly endless search for a relatively permanent home. Some of the reasons they move is that since the 22% cut to welfare payments, for instance, the maximum shelter allowance payable to a single parent and one child is \$511, which is well below the average rental price in Thunder Bay, according to CMHA. Another reason they would move, for instance, is that one young woman we know moved into what she thought was going to be a permanent situation, but come winter the apartment was so damp — the carpets, you'd put your foot on and the water came out of the carpets. Another reason they might have for moving would be, one of our members was being harassed by drug dealers who lived in the same building.

(3) If it becomes to a landlord's advantage to have a high turnover of tenants, it will lead to harassment of sitting tenants. This is not an illusory concern. In jurisdictions where this system has been allowed, it has resulted in tenant harassment. We don't need the experiment; we know it's not going to work.

Low-income people are particularly vulnerable to harassment. They are already involved in an ongoing struggle to provide the necessities of life and have little energy left to fight other battles. Thanks to the provincial government's introduction of the welfare fraud snitch line, single mothers on welfare are sitting ducks for harassment.

(4) The government is proposing that landlords be allowed to increase rents over the usual maximum allowable amount to compensate them for increases in property taxes. This government's policy of downloading on to municipalities makes property tax hikes inevitable. Allowing landlords this latitude will ensure that, yet again, low-income people will carry an unfair share of the province's financial difficulties. We would suggest that if poor people can be penalized to "help the province" by a cut of 22% in their incomes, then landlords can also afford a cut in their profits to help the same province.

We are deeply offended by a statement which appears on page 2 of your discussion paper. It states that rent increases resulting from this measure will "tend to be very low." We are not reassured. Many people who come to our food bank are now living on less than \$550 a month. In fact the maximum allowable amount for a single person in this province is now \$520. At that depth of poverty, there is no such thing as a very low rent increase. An increase of \$5 a month is significant. We give people about \$8 worth of food, and they queue up around the block to get \$8 worth of food.

(5) The proposal that new buildings not be subject to rent control will result in less affordable housing being built, as developers will concentrate on building high-rent units. Therefore, a poor person's chance to live in a modern, safe building will be lessened. After all, developers don't have a responsibility to look after the disadvantaged; the government does.



One of the primary concerns of the parents with whom we come into contact is their desire for a safe, clean, well-maintained, modern home for their children.

Concerning the proposed anti-harassment measures, we have two points to make.

(1) Page 7 of the discussion paper proposes the establishment of an enforcement unit to investigate tenant complaints of harassment. We are sceptical of the level of protection that such units will provide. In the 1995 speech from the throne, the provincial government stated that it wished to "demonstrate its commitment to northern Ontario" and that it would "give northerners a greater voice." So far this commitment has been realized by such measures as the gutting of our women's directorate and health care system and by the replacement of our child support enforcement office with a long-distance phone number.

In light of our northern experience, we would like to ask the government members present today when these anti-harassment units will be established. We want a commitment that an enforcement office will be located in Thunder Bay. We want a commitment from these government members today that low-income people in Thunder Bay will have better anti-harassment protection than a 1-800 number to an understaffed office in Toronto. Please bear in mind that page 9 of your discussion paper talks about the need for public input to be balanced by cost-effectiveness and posits the closure of some existing rent control offices. You'll appreciate where our scepticism comes from.

(2) We believe that by proposing the establishment of anti-harassment units, the government is admitting that its policy of allowing rent increases on vacant apartments will make harassment of sitting tenants inevitable. This government knows it is leaving tenants open to victimization and is issuing vague promises that it will close the stable door after the horse has bolted.

The discussion paper addresses the conversion of rental units to other purposes. We have two points to make on this issue.

(1) In its preamble to the discussion paper, Mr Leach mentions that, "Builders are not building new rental accommodation," and "The private sector has no interest in investing in rental accommodation." Why then does the government propose allowing landlords complete freedom to change existing rental accommodation to other uses? If Mr Leach recognizes that builders are not interested in building new affordable rental units, why does he think doing away with existing units will be good for the province? Could it be that the government intends to look after developers at the expense of the supply of affordable rental homes?

(2) Page 11 of the paper says that should a landlord wish to demolish rental housing or change its use, sitting tenants will be given extended tenure. We have a series of questions from our food bank customers here. How long is "extended"? Under what conditions? Where will they move to? What will the supply of housing be in their community? Will people on social assistance or the working poor be given help with moving expenses?

Finally, concerning the proposed changes to the dispute mechanism, we have two points to make.

(1) We are not in favour of the adjudication of evictions being transferred from the court system to some form of tribunal or board. We compare this proposal to our experiences with the Social Assistance Review Board since this government came to power. The government appointed as its chair of the board a failed Tory candidate who was well known in Thunder Bay for her inaccurate and derogatory comments about social assistance recipients. From January to June of this year, only 12 of the 53 appeals she heard were resolved in the appellant's favour.

(2) Page 9 of the paper proposes user fees for the dispute resolution system, and I'm getting really tired of telling this government what I'm going to say yet again. User fees affect poor people to a greater extent than they do more affluent people. User fees are a form of regressive taxation. User fees are a barrier for low-income people to obtain justice. User fees cause low-income people to pay more than their fair share of the provincial debt.

**1330**

In summation, the Thunder Bay Coalition Against Poverty believes that, taken as a whole, the proposals contained in the paper Tenant Protection Legislation — New Directions for Discussion do not represent the best interests of low-income tenants. Rents will increase; tenants will be harassed; the stock of affordable housing will decrease.

When these proposals are viewed in conjunction with this government's cancellation of most subsidized housing projects in Thunder Bay, its closure just last week of the access to housing program and its stated plan to divest itself of all public housing, the future for low-income tenants in our community looks bleak indeed.

One issue about process: It's very difficult for small community groups such as ours when public hearings on two issues are scheduled on the same day. We spent all morning at employment standards and then we came right over here. We can't help wondering if that was deliberately done.

Thank you for your attention to our presentation.

**The Chair:** Just a comment: I'm sure there was no deliberate attempt to make it difficult for people by scheduling both hearings simultaneously. It did cut down on some travelling expenses for the government.

Questions begin with the Liberals, for two and a half minutes.

**Mrs McLeod:** I would love to see a commitment to not having a 1-800 number for this, Chris, but I'm not optimistic, given what we've just gone through.

Brenda Reimer was here a little bit earlier, and she used a figure of 1,658 households that are on a waiting list for accommodation that they can afford, 75% of whom are categorized as desperate. We have a 6.5% vacancy rate in Thunder Bay. Theoretically, we shouldn't have a problem. Tell me why the people you work with on a daily basis are not able to find affordable accommodation in Thunder Bay.

**Ms Mather:** Because there isn't enough affordable accommodation. Landlords are there to make money, so they charge as much as they possibly can, and this government has cut people's income by 22%, so they don't have enough money to afford the apartments that are vacant. It looks really great when you say Thunder



Bay has a large vacancy rate, but you've got to look at what those vacant apartments cost and compare them to the income of poor people.

**Mrs McLeod:** Do you have any sense of how large a shelter allowance would have to be in order for your clients who aren't in good housing now — I think you called it relatively permanent housing — to be able to move into relatively permanent housing?

**Ms Mather:** That's a real tricky question that I'm desperately thinking quickly of a safe response to give. It depends on the size of the family. A person with one child probably needs around \$800 in this community. I did hear that, next to Toronto, we had one of the highest average rates in the province.

**Mr Marchese:** Ms Mather, I thank you and the whole group for coming. It's my belief that the users and those who help the users are the best and most informed about what's happening. One of the things this package does is to help the landlord more than it helps the tenants, as I see it. Although it's called the Tenant Protection Act, in the view of many it should be called the Landlord Protection Act. When you enumerate a whole list of benefits — as examples, rent decontrol, which only transfers wealth from the tenant to the landlord; the rent registry is gone, no more protections for the tenant; the Rental Housing Protection Act means most units will be converted into condominiums; and the disappearance of our ability in the past to legally withhold money when the building was in serious disrepair — we see these as things that help the landlord. In your reading and in your talking to the various users of the program, is there anything in this proposal that helps tenants?

**Ms Mather:** I couldn't find anything in it that helped tenants. We had to pick and choose from things that seemed to harm tenants and pick the ones that we thought were the worst.

**Mr Marchese:** They have cancelled all the non-profit and cooperative housing. The private sector says: "Rent control is not enough. We want more. We want a long carpet of tax breaks in order to be able to build." The private sector isn't building, isn't likely to build in many years, there's a diminishing supply, there's an affordability problem. Is there anything in this proposal that you think is going to build housing for those who need affordable housing?

**Ms Mather:** There isn't anything in this that's going to build housing for low-income people. What I think should happen is they should cancel their blood money tax cut and use that to help poor people.

**Mr Marchese:** Thank you very much for coming.

**Mr Hardeman:** First of all, thank you for coming in and making your presentation. You mentioned the tenant having problems because they were living next door to a drug dealer. Would you not suggest that there's a need to change the system so landlords and tenants together can deal with those types of situations to remove the drug dealer out of the complex?

**Ms Mather:** Absolutely. The problem with the things that you guys are suggesting, though, is that the percentage of tenants who are problem tenants is minuscule, so you don't put a whole pile of punitive conditions on the majority of people in order to deal with the minimum amount of disruptive tenants.

**Mr Hardeman:** But you would suggest that it does need addressing, that it is an issue.

**Ms Mather:** I think drug dealers could be dealt with by giving adequate resources to our police forces and paying attention to our criminal justice system.

**Mr Hardeman:** The other issue you brought up was the fact that if you decontrol the rent on vacant apartments, they will dramatically increase. Of course, the rent control has been put in place over the years because of low vacancy rate. We've heard a number of presentations this morning suggest that because there is a high vacancy rate in Thunder Bay, that doesn't change the fact that when the apartments are going to be reoccupied, they will still charge massive rents. But we have some numbers that suggest that in the past year, even with the controls, the landlords have not been raising the rents in Thunder Bay to their allowable rent increases. In fact, they've gone up 0.5% in the last year on average. Could you explain why, with decontrol, they would raise it far beyond what the market would support if they are presently allowed to do that but they're not doing it?

**Ms Mather:** Nowhere in my presentation do I express the concern that they'll raise the rents massively. A small increase is significant for a low-income person. We're talking about low-income tenants. I don't believe that anywhere in my presentation do I talk about massive increases.

**Mr Hardeman:** So you don't see that as happening, that there would be massive increases because of the deregulation.

**Ms Mather:** I don't know whether there would be massive increases. I do believe there would be increases and I believe there would be a cumulative effect. An apartment becomes vacant, it's raised \$25; an apartment becomes vacant, it's raised \$25. Most single mothers stay on welfare something like 3.5 years, so the accumulation of those increases over 3.5 years that a woman is on social assistance would then become significant.

**Mr Hardeman:** Recognizing that under the present regime the landlord has the ability to do that without vacating the apartment. This year they were allowed to raise it 2.8%, under the present regime. That is considerably more than they have been raising it. They've had the ability to do it, but they're not doing it. Could you tell me why?

**Ms Mather:** I'm sorry, I'm not understanding the point you're making. I've lost you. Could you try again?

**Mr Hardeman:** Presently, this year, a landlord in Thunder Bay can raise the rent by 2.8%. They're not doing it because the market forces do not allow them to do it. Some would be suggesting that if that restriction is removed, they will all of a sudden raise it 2.8% or more because they're not restricted. I have trouble understanding that, and I wondered if you could explain.

**Ms Mather:** No, I don't understand the logic.

**The Chair:** Thank you, folks. We appreciate your input this afternoon.

1340

## OUR KIDS COUNT

**The Chair:** Our next presenters represent the organization Our Kids Count: Silvia Silver, Estella



Howard, Tara Silver, Jerri Lyn Towell, Sheryl Flank and William Roberts. Good afternoon, and welcome to our committee hearings.

**Ms Silvia Silver:** My name is Silvia Silver. I'm the chair of the planning team committee for the County Park Community Family Resource Centre here in Thunder Bay. This community family resource centre is sponsored by the project Our Kids Count, which is funded by Health Canada. I am a woman living on a limited income, and I'm very concerned. I'm concerned for myself, my family, and for the community I live in. I am more than concerned. I'm afraid. I'm afraid of government policies such as tenant protection legislation being destroyed, all in the name of deficit reduction.

This government does not exist to serve the needs of Ontario citizens. This government does not exist to create an environment that is nurturing to our children. This government exists to reduce the deficit. We are talking about cold hard cash, and the cold hard fact, to use Mr Al Leach's term, is that children are suffering.

When the cuts to welfare happened and the public spoke out, you didn't listen, and I have no reason to believe you'll listen today. Yet I am committed to social change and I believe, as a citizen of a democratic country, that I have the right and responsibility to speak for those who are either unable or too fearful to speak for themselves. I am speaking for our Ontario children. I am speaking for Sean, who is four. I am speaking for Amber, who is 12. I am speaking for Alisa, who is 16 with a newborn baby to take care of. These are real people. These are real lives, and these lives count.

The major goal of Our Kids Count is to promote the health and development of children ages 6 and under who are in need of support.

There are 3,220 low-income families and 5,385 low-income individuals in the city of Thunder Bay. These figures were taken from the 1991 census, and I suspect those numbers would be much higher today. There are presently 2,320 families and individuals on general welfare and 2,124 sole-support families in this city. Much of my volunteer work is with low-income families, families that will be affected by the proposed New Directions for tenant protection legislation.

In reading through this paper, I decided I would focus on a particular word and/or concept. The word or concept I am focusing on is "negotiate," meaning to "transfer or assign to another in return for something of equal value." I use this term because it was used in the New Directions discussion paper, and I quote: "When a unit is vacated, the landlord will negotiate the incoming tenant's rent without regulatory restriction."

What we are talking about is equal value between how much a landlord believes the living space is worth, in terms of dollars, and the amount of money a person is able or willing to pay to stay in that same living space.

As I see it, the landlord's goal is to get a return on an investment, perhaps to simply cover the mortgage payments, taxes, hopefully upkeep, and then profit. The tenant's goal is to acquire a decent and safe living space that's affordable. What I believe you are suggesting is that the landlord would be willing to sit down with the potential tenant, each of them look at their financial

situations and then negotiate a fair monthly amount for both of them.

Wow, that's incredible. Do you really think they would do it? Hello out there. Maybe it's time for a little reality check.

Try to imagine a scene in Safeway with a lineup of customers who would like to negotiate the price of milk or eggs or, better yet, tuna. Try to imagine negotiating the price of gas at your local Petrocan: "Excuse me, sir, I've noticed the price of gas is a little high this week. I had to do some major repairs on my car lately, so would you consider dropping the price a little, just this one time maybe?"

Landlords are business people, some small business and some big business. Not unlike large grocery chains or your local gas station, they are in business for profit. Why else would they be renting a home or building?

I believe it would be a rare instance that anyone on this committee would be renting a home. People who rent homes are most often people who cannot afford to buy a home. We're talking about low-income families, students, people with disabilities and others. Have you considered the impact such decisions could have on their lives?

We present a skit:

**Interjection:** "That's right. You're talking to me. I'm no pretty lady from the bourgeoisie. I'm a working-class mother with a family of four, and I don't need no landlord at my door."

**Interjections:** "To negotiate, to negotiate, to negotiate."

**Interjection:** "Knock, knock, knock, knock."

**Interjection:** "Oh, someone at the door. Oh, hello."

**Interjection:** "Hello. I read the ad in the paper for your apartment."

**Interjection:** "Are you sure you have the right person?"

**Interjection:** "Yes. Isn't this 204 Smith Street?"

**Interjection:** "Yes. My name is" —

**Interjection:** "Your name is Mr Bloodsucker, right?"

**Interjection:** "No, no, Bloodsucker. It's French."

**Interjection:** "I'm sorry, I didn't mean to say it the wrong way. Anyway, the point is, I'm here to negotiate the rent."

**Interjection:** "Negotiate?"

**Interjection:** "Yes, yes. I would like to sit down with you and maybe you could tell me what your financial needs are and I could tell you what my financial needs are and we could work it out together. Isn't that a neat idea? You know, him and I together, sharing, working out the rent. That's really fair. I like it. Will you do that with me?"

**Interjection:** "In a word? No."

**Interjections:** "Negotiate, negotiate."

**Ms Silver:** There are 3,700 rent-geared-to-income units in Thunder Bay, with a waiting list of 1,685 people. Public housing and/or Ontario housing, social and co-operative and/or non-profit housing and tenant protection legislation exist because the private sector failed to meet the needs of Ontario citizens.

Let's look at the average rent here in the city of Thunder Bay. The average rent for a one-bedroom unit is



\$518 and the current market rent for a three-bedroom town house is \$840. If you're living on a limited income, which is often the reason most people cannot afford to buy a home, you're forced to pay rents that often exceed monthly budgets. Rent must be paid. Shelter is essential, and sometimes meeting the monthly rent means not meeting the nutritional need of a family, and we're talking about children here. We're talking about hunger. We're talking about abuse and neglect, not by parents but by a system whose provincial prayer begins with "We must reduce the deficit," and whose god is private business.

If you're receiving social assistance, the maximum allowable rent for a family of four is \$602. This amount includes all utilities and heat. Those of us living in this northern climate know that we require heat seven to eight months of the year and heat is expensive.

Now let's look at a single parent with three children renting a three-bedroom apartment — one room for the parent and two more to share with the three children, not unreasonable. If the current market rent for a three-bedroom town house is \$840, this does not include utilities and heat. The tenant must come up with the additional money. Have you considered how they do this? A significant number of families I work with are without telephones and vehicles. They're often isolated in their homes and, because of poverty, isolated in their spirit. Food is often limited and of poor quality. What you are asking now is for this mother to pay even more for her rent. Think about it. Where is this money going to come from? The private sector? Big business?

We present a skit:

**Interjection:** "That's right. You're talking about me. I'm a single parent with a family of three. My social worker gave me \$602. If my rent goes any higher, I don't know what I'll do."

**Interjections:** "Negotiate, negotiate, negotiate."

**Interjection:** "Knock, knock, knock, knock, knock."

**Interjection:** "Why, hello, Miss Tenant."

**Interjection:** "Mr Bloodsucker, I'm busy right now. My kids are sleeping and I'm not feeling well."

**Interjection:** "Yes, I know."

**Interjection:** "This is about the fifteenth time you've been here this week. Now what do you want?"

**Interjection:** "A terrible thing has happened. You see, my mother is sick and all of her little animals are sick too. The bird is sick, the dog is sick, the cat is sick."

**Interjection:** "Excuse me, but what does that have to do with me?"

**Interjection:** "I need your apartment for my mother because when she's going to die, she has it in her will that she wants to die in the place that she used to live in. She used to live here. She wants to die here with all her little dying pets. So please, please. I'll give you 24 hours. It's plenty of time. You just go out and — I actually have another place for you, a nice little place, I emphasize the word "little," but it's a beautiful little place."

**Interjection:** "You are trying to get me to move just so you can increase the rent. Get out of here."

**Interjection:** "I'll have to try something else, won't I?"

**Ms Silver:** You may respond to this by saying that sitting tenants would not be affected. The ministry's proposed tenant protection package states: "The current rent control guideline formula will be retained for sitting tenants. The 1996 guideline is 2.8%. It will be about the same in 1997."

As I see it, sitting tenants could become sitting ducks for those landlords whose sole purpose is to turn a profit on their investment. Who is going to protect tenants? Getting rid of tenants and raising rents will happen. Harassing vulnerable people and hurting children will happen. The slogan "Ontario, we are back in business" clearly stated where this government's support sits.

We present a skit:

**Interjection:** "That's right. You're talking about me. I'm a teenage mother with a tiny baby. The roof is leaking badly and I can't afford a phone. If the rent goes any higher, we won't have a home."

**The Chair:** Thank you. We have about two minutes per caucus left for questions. We'll begin with Mr Marchese.

**Mr Marchese:** Thank you very much for the presentation. I think often we need to do that simply to get a sense of how things are likely to happen in the real world — and they will happen, no doubt about that.

On the whole issue of negotiation, we had a Mr Burton in Toronto who was a developer and a landlord, and he said that it was an insult to tenants in particular to somehow suggest that they wouldn't be able to negotiate with a landlord. For the rest of us in the real world, it's easy to be able to understand that if you don't have the power, the relationship is unequal. That person has the right to tell you whether or not you're going to be staying, under what conditions. That person is likely to harass you in ways that you can't even defend yourself from, so it's not an equal partnership.

1350

**Ms Silver:** Right.

**Mr Marchese:** Do you all agree with that?

**Ms Estella Howard:** Absolutely.

**Mr Marchese:** One of the comments that the Conservative members say is that we've got a big waiting list, and you've just pointed out we've got 1,600 people on the waiting list. Isn't that an indication that the system has failed us, the present one? So what do they have? They have a tenant protection package that serves to protect the landlord, by and large. You were probably here before when I asked the same question about —

**Mr William Roberts:** I heard that.

**Mr Marchese:** Okay. Rent decontrol is gone, and people are saying once you eliminate rent control itself, it's not going to create the housing. The rent registry is gone; no more protection for tenants. The Rental Housing Protection Act will disappear, which means that rental accommodation is likely not to be there in the present form but likely to be converted to condominiums. So if waiting lists are a problem now and the private sector says, "We're not building because we need a big carpet for you to give us," on that red carpet lots of tax giveaways, and the government isn't building any more, how is that waiting list going to get any better?



**Ms Silver:** It isn't going to get any better. It's going to get bigger.

**Mr Marchese:** That's our view and it's certainly the view of tenants, and what you're sharing with us isn't singular or particular. All of you are saying very much the same thing. The only people who agree here are the Tories and the landlords, and they seem to have the same interest. That's all I seem to be getting from this whole presentation so far. Thank you very much for coming.

**Mr Parker:** Thank you for appearing before us this afternoon and for your presentation. I want you to know I have a keen ear for subtlety and I picked up the message that you don't much like the proposal that's being put forward here. There seems to be agreement across the board that there are problems under the current regime. Certainly I am hearing that there are problems with the current regime. We have problems with low vacancy rates. In Toronto, where I come from, vacancy rates are alarmingly low. We have problems with maintenance; we have problems with the condition of apartments. In Toronto that's a problem; I'm not so familiar with the situation here in Thunder Bay.

I'm looking for solutions. I'm looking for some answers to those problems, a way out of the difficulties. Can you help us with some ideas of your own as to how we can solve the problems of today and also address the need for increased housing in the future? I'm thinking in particular of the urban areas, which are the fastest growing areas of the province. Again, I come from Toronto, where people are coming from all across the province. We have a population boom in Toronto and we have to provide housing for those people. Can you help us out with how to address those challenges?

**Ms Howard:** I am a community support worker with Our Kids Count. Off the top, I don't believe lifting rent control and having people on low incomes struggle to pay rent is the answer; definitely not. I'm not sure, I'm not an economist —

**Mr Parker:** I appreciate that. You made that point very clearly in your presentation.

**Ms Howard:** So what's the solution? Off the top of my head, I guess you would have to create incentives for builders to want to build homes. There would have to be a way that people in the trades and contractors could do that, but not on the backs of low-income families — absolutely not.

**Mr Sergio:** How much?

**Ms Howard:** How much what?

**Mr Sergio:** Incentives.

**Ms Howard:** I don't know. I'm sorry, I can't answer that.

**Mr Parker:** You'll get your chance, Mario.

**Mr Roberts:** I think maybe what you're looking at as we move into the next millennium is that because we're such a wide and spread-out province — and Thunder Bay is not experiencing any kind of boom in population. In fact, I think they may have to lower the signs that you may have seen as you came into town. No, you didn't come over land. You came by air, didn't you? I'm sorry.

If this is to be a new, market-driven North America with everyone believing that we have no boundaries any more, it's going to be a new social network that is going

to have to save the businesses and the business people in this small area that's falling way below the people who have plenty of money to encourage growth in that.

We may be talking about right now eliminating the social fabric for — we are talking about that — the population, but you may have to think of a social fabric for the entrepreneur and the new thinking about that in some way that actually provides for a morality towards people that gives them something to grab on to, some sustenance that makes them actually believe that we are all working for the best province that we could possibly have.

Right now, there is no belief and there are very few politicians, if any, who say, "I want to make this the best city; I want to make this the best province we can actually live in." Right now, all we're struggling with is minutiae and trying to save money by cutting small costs everywhere.

**Mr Curling:** I think your presentation was excellent in the sense that I hope it gives the message. It wasn't subtle. I didn't think your message was at all subtle. I hope we get the message loud and clear.

Greg Lampert is a consultant this government had paid big bucks to get some advice from. We asked that he come before us to explain some of his conclusions, but they turned it down. They didn't want him here. Let me tell you what he said. He said:

"Other measures are required to make private rental investments more attractive. Investors in new rental housing, like most investors, are seeking a return commensurate with the returns available from alternative investment. Recognizing the risk inherent in the investment, they will not invest in new rental housing unless it makes economic sense.

"Many potential investors have indicated, as a result of an examination of the cost and revenues associated with new rental housing, that the investment is not attractive in many parts of Ontario at present, even if the regulation environment is relaxed."

This government will tell you that taking off rent control would help it. It won't. They tell you it will not. It will not do anything at all. They talk about negotiators — your point. They have taken away all the equipment, all the resources of the tenant and then say, "Go and negotiate." They took away their money, 22% of the lowest-income people in our society. They took that away, and they're going to dismantle the rent registry and then say, "Now go and negotiate."

So the message you said was not at all subtle; it's direct. They refuse to hear, they refuse to listen, and I want you to continue your struggle. I'm sorry to be lecturing like that — to them, not to you — but I want you to continue that struggle and to tell those tenants they will not take away rent control because it's not the tool to build any new, affordable stock for people in Thunder Bay.

They try to impress upon you that this is a Toronto issue. It's an Ontario issue. It's Thunder Bay, it's Windsor, it's all over. It's an issue for the people of Ontario that they should not dismantle the best protection we have for the most vulnerable people in our society.

**The Chair:** Thank you, folks. We appreciate your input here this afternoon.



1400

## PEOPLE ADVOCATING FOR CHANGE THROUGH EMPOWERMENT

**The Chair:** Our next presenter is Len Maki, representing PACE, People Advocating for Change through Empowerment. Good afternoon, sir. Welcome to our committee.

**Mr Len Maki:** Good afternoon. PACE stands for People Advocating for Change through Empowerment. We are a psychiatric consumer-survivor group whose purpose is to increase the quality of life of consumers by removing the stigma, myths, prejudices and misconceptions associated with mental illness.

Thank you for this opportunity. I will be direct and to the point. Some of the proposed changes we see as being able to protect the rights of tenants, but only if they're followed through with. To increase fines for harassment of tenants by landlords is a good idea on paper. However, what will the reporting mechanism look like? How will allegations of harassment actually be investigated?

The move to a market rent model has serious potential for the rights of tenants to be abused. People who refer to themselves as psychiatric consumers, that is, people with psychiatric disabilities, often have a hard time finding reasonable, affordable and healthy places to live. Often they end up in substandard housing. When landlords learn of their disability, they often react out of fear and stigma and start to harass these tenants. Often it is other tenants in a building who begin to harass psychiatric consumers. Has there been any consideration given to this?

Psychiatric consumers often feel disempowered. Due to this, they often would rather move than face a difficult landlord or going to court. If a landlord wants to charge a higher rent, it would be very appealing to get rid of the previous tenant.

I would like to see a thorough public education program tied in with the announcement of the changes to landlord-tenant issues when it is complete. In this program, I would like it made clear that harassment of tenants due to their disabilities will be punished.

Organizations such as PACE and other groups representing the view of consumers can be part of a process of educating and reporting such harassment and abuse. Training sessions between the Ministry of Housing and community groups would provide working linkages within the system.

The market rent philosophy may work for people who are able to pay a higher rate for a better place to live. People who have to rely on family benefits or even GWA benefits do not have expendable income to move up to a nicer place.

The potential scenario may include a ghettoization of persons with disabilities. They will end up in lower-standard housing while those who do not face the same socioeconomic barriers will have better housing.

This situation will be brought home with the provincial Hospital Services Restructuring Commission's decision to close the Lakehead Psychiatric Hospital. The need for affordable public housing will never be greater. There will be more people who face the challenges of their disabilities. Trying to find affordable housing will

become extremely difficult in a purely market rate system. There has also been no announcement at the time of this being written regarding community support programs to replace the programs from the LPH.

I will ask the members present, where will these people live? I would like to see this committee liaise with the Ministry of Health and Ministry of Housing to help prevent what could become a community disaster. That disaster will be people with disabilities of various degrees on the street without decent, affordable housing.

It is clear this government is not interested in providing money to communities for public housing. Would it consider the establishment of a working group of community stakeholders, including consumers, to establish some workable solutions?

This group could possibly become a regional dispute resolution system. This system could include business, consumers, community legal clinic representation and tenant groups. It could be a first-tier mediation with decision-making power. Appeals of their decisions could be made to the Ontario Court (General Division).

Regarding care homes, while there currently are no units which fall into this category in the Thunder Bay area, I feel there needs to be much clarification regarding entry rights of landlords in this area. The potential for abuse in this area is great.

Thank you for listening and I'd be happy to answer any questions.

**Mr Maves:** Thank you, Mr Maki, for your presentation. I have two quick questions: One's from the very first paragraph and one's from the very last paragraph. Earlier today, we had the Canadian Mental Health Association here and I asked them this question; I'll ask you the same. Are there occasions where your group would try to educate landlords or discuss with landlords and try to remove the stigmas surrounding psychiatrically disabled people?

**Mr Maki:** I would welcome an opportunity to do that. I haven't had an opportunity in my position with this organization to date. If there were some way of promoting that idea I would be very much in favour of it.

**Mr Maves:** The other thing was — now with the last paragraph — in care homes, with wanting to make it possible for the resident to request even that there be a bed check at night if the person has very fragile health. The example was they had just had a heart attack and they wanted someone to check on them in the night. Under the current legislation they can't do that and we've put that in the discussion paper to try to address that. We had a group in Toronto which brought up the same concerns you had about the abuse of this. Is there any way you can think of that we can try to balance those two obvious points of view that both have merit?

**Mr Maki:** I think it's a matter of making sure that the individual understands the full implications of what they agreed to, that by agreeing to allow a landlord into their dwelling they are doing just that, that they are basically waiving their right of a tenant's privacy and that they be fully aware of that before they agree to it. I would also add that they have it in writing and that it's clearly written out exactly to what extent and what window that individual is agreeing to.



**Mr Smith:** Thank you for your presentation. I as well want to make reference to the last page of your presentation. I am concluding from the second paragraph, where it says that "this government is not interested in providing money to communities for public housing," I am assuming that deals with new housing, because I think it's important to realize that the government funds approximately \$1.5 billion in housing subsidies in the province and that there is still a commitment in that regard.

The second sentence of your statement deals with the establishment of a working group of community stakeholders and leads into a regional dispute resolution process. How come that hasn't materialized to date and what encumbrances or barriers do you foresee in your own community from that happening?

**Mr Maki:** Before I answer that I would like to ask you about your initial comment about the \$1.5 billion. I'm wondering if you have any idea if the government is going to continue with that figure. Is that a guaranteed figure to follow through for future funding towards community housing?

**Mr Smith:** That's a fair question; there are no guarantees. I just want to suggest to you that perhaps it's unfair to suggest that there's no commitment in public housing presently, and that's what the amount is for some 225,000 units. That issue aside, I was drawing the conclusion from your statement that you were referring directly to non-profit, where we've obviously made a withdrawal.

Specifically with the dispute resolution, I'm interested in this because it's one of the areas of the paper that's very open to suggestion and I think groups should be taking every advantage of designing a vision or designing a system that they think is most appropriate. We've heard very clearly some strong support for the current court system. You suggested mediation and I would like you to develop some further thoughts on that if you could, to suggest how that might look and work.

**Mr Maki:** I haven't had enough time to give it more thought. I think one of the important points from the people I represent is that when you have mediation it be as fair and impartial as possible. The people I represent, due to the nature of their disabilities, often have a lot of difficulty in understanding legal concepts and representing themselves in a good fashion. So any kind of mediation should include the possibility of supportive representation on behalf of people with disabilities.

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**Mrs McLeod:** I don't want to pursue the dispute resolution issue with you because there's another issue I'd prefer to get you to comment on, although I think the presentations that have been made up till now which reflected concern about the dispute resolution are not that mediation can't be a good thing, but that it would be instead of access to courts, particularly on stopping things like evictions which are not legitimately being carried out.

I am increasingly concerned as I sit around the committee today. It's like we're talking about people in essentially two different worlds. One of the frustrations with the discussion paper and the fact that we're only dealing with one component of the government's approach to housing is that you can't somehow relate the

issues of the two different worlds. We've got the fact that we're in a community where we have a high vacancy rate compared to other communities in the province, 6.5%, where theoretically taking rent control off shouldn't matter a lot because if there are choices for the tenant to move and go somewhere else, the landlord is not likely going to raise his rent and lose his tenant. It has been pointed out that the rents are not increasing here to their maximum.

But I guess the point is, neither are they decreasing. Even when the units can't be filled, the rents are not going down and they're certainly not going down enough so that people who can't afford the market rent are able to go into those units. I think those are the people you are speaking for today. I guess I'd just like to ask you to expand a little bit more. Here we are, and I've asked this question of others, in a community with significant vacancy rates and yet we have psychiatric consumers who cannot find housing.

**Mr Maki:** It is a common topic among the membership of our organization that they just cannot find decent, affordable places to live. There is a high vacancy rate here and I am sure that previous presenters and panel members have commented on that.

My own personal experience is that I pay \$500 for a small one-bedroom apartment. I lived in Toronto for three years and when I moved back here five years ago I was really quite amazed at how much rents had gone up in Thunder Bay. The prices in Toronto are definitely high, but given the size of this community, I think rents are already too high here.

I came across Canada from British Columbia on some vacation and during that time I looked in newspapers. If you contrast it with the city of Winnipeg, Winnipeg enjoys very favourable rental rates. I think Thunder Bay is much higher compared to Winnipeg. In terms of socioeconomic and particularly geographic things, Winnipeg might even be a better example to draw from than Toronto. Things in Thunder Bay are quite different than in Toronto, the point being that while there is a vacancy rate, people who live on various forms of assistance have a hard time finding affordable housing.

**Mr Sergio:** I have another question for you, Mr Maki. Mr Chair, if we have time, I'll jump to my second question. One of the objectives of the reform is to protect tenants from unfair and high rent increases, harassment and unjust evictions and to provide strong security of tenure. Another one is to focus more protection on tenants rather than on the units. I'll read you a third one: provide a faster, more accessible system to resolve disputes between landlords and tenants. In your knowledge of the proposed legislation, is this going to be better or is it going to be worse than what we have now?

**Mr Maki:** I think there are some things that have the potential to help protect some tenant rights if they're followed through with. If this government is serious about fining landlords who abuse tenants' rights, then that is not a bad thing, and I hope landlords will listen to that. Money is the bottom line here. Money talks. People are not in the business of housing to lose money.

**Mr Marchese:** Mr Maki, several things: With respect to care homes, that particular page in the proposal is



called "Rights of Operators." It's not balanced off at all by putting in there "Rights of Those Who Occupy Those Care Homes." You and others have raised questions about some of those protections, and I think they're very legitimate questions. They've heard them from many people already. I simply wanted to say that.

I don't want to touch much on mediation tribunals or the courts, because although they're part of the report, the significant parts of this have to do with affordable homes and whether or not someone is going to create them. That's really the guts of it. What they've done is effectively remove rent protection by deregulating, where eventually, if 70% move over a five-year period, you're effectively removing rent controls. That's really the guts of this report. In addition, they want to get rid of the Rental Housing Protection Act, which will allow those who own rental buildings to convert them. So the housing stock is about to disappear.

This government says to you: "Mr Maki, we want to hear from you. We want to know, how do we build?" But their paper doesn't even raise a question about how to do that. They simply say: "It's not working now. We have high vacancy rates, in Toronto in particular. We have waiting lists. My God, the system is failing." What do they do? They stop building. They say: "No, we don't want to build housing for the poor. That's wrong. We think the private sector should do it. We're going to get rid of rent control." So you have no basic protection. Then you're stuck. Who's going to build?

Their report says the private sector is going to build. But every now and then you hear the members saying: "Oh, but we can't afford it. We don't have the money." But to afford it, Mr Lampert says you've got to do a whole lot of things for the private sector; they want a whole lot of taxes taken off in many ways, reduced development charges, equalized property taxes, have the GST paid, a whole list of things that they want. So we're not going to see any housing in five years. So when they ask you, "What do you think? How do we solve this?" — Mr Smith is tired because the poor man doesn't have any suggestions to give to you about how to solve the housing crisis.

**Mr Preston:** There's a difference between tired and bored.

**Mr Marchese:** Yes, Mr Preston is bored too. This poor man has just joined us today, and he's bored. The other man is tired, and he's bored too. Why are they bored? Because they're tired of listening to people like you, who come and ask questions like, "I ask the members present, where will these people live?" Have you ever heard any of these people answer your question? Please ask them for me. Take my time and ask them, "Where will these people live?" Can you do that for me?

**Mr Maki:** I am very concerned about where the people that I represent will live, particularly in light of other policies that the government of the day is pursuing, such as hospital restructuring, taken in the context of housing.

**Mr Marchese:** So, Mr Preston, you're bored. I know you heard this. Answer the question. Where are these people going to live? Mr Smith, you were bored, where are these people going to live? You answer that question

for him. Mr Parliamentary Assistant, he asked a question. I will ask the members, where will these people live? Please answer that question.

**Mr Curling:** Good question.

**Mr Marchese:** Answer that question. Where are these people going to live? They have no answers for you. You see, they can't answer a very simple, basic question about where vulnerable people are going to live, and then they're bored because I keep on asking the same questions.

**The Chair:** Thank you, sir. We appreciate your input here this afternoon and your interest in our process.

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#### KINNA-AWEYA LEGAL CLINIC

**The Chair:** Our next presenter is Dan Cox, staff lawyer of the Kinna-aweya Legal Clinic. Good afternoon, sir. Welcome to our committee.

I would like just to remind people that we are here to listen to ideas and input from the people of Thunder Bay, not from one another. We can do that at our leisure, but we're here to listen to the people of Thunder Bay, so I would just remind you of that. The floor is yours, sir.

**Mr Dan Cox:** Good afternoon. I'll try not to be boring or put anybody to sleep. I'm coming at this from a legal perspective, obviously. I've been at the legal clinic for 15 years. I've done tenancy work on a weekly basis during that time; my other colleagues have as well. We have about 60 years of experience between us with our existing Thunder Bay legal staff at this time, and the clinic has been around for 18 years.

I'm not going to read from my brief, because I don't generally present that way; I'm going to highlight some of the things in it. We give summary advice to about 2,000 people a year. We open about 500 or 600 files a year, all low-income people, poor, disabled, a combination thereof, from basically minority groups, native, non-native etc.

I'm not going to be subtle. I'd like to get right to the point. I do not, nor does my organization, support anything in the proposals that are before this government at the present time. It is an unqualified formula for disaster as far as I'm concerned. I don't see anything in it that's going to improve the lot of tenants, particularly low-income tenants. When you talk about a vacancy rate in Thunder Bay, that may be true for what I would call middle-class or luxury accommodation. There is certainly no high vacancy rate in this city for people with \$520 a month on welfare, which is what a single, employable individual on welfare receives. There is no decent, affordable housing for those people, despite the high vacancy rate. My organization certainly believes that there ought to be decent, affordable housing for all citizens of this province. That's where we're coming from.

To remove rent regulation and rent controls on units when they become vacant is an incentive to landlords to get rid of people. As you will hear, of course, I think the statistics are that 20% of people move in any given year anyway. They move to take jobs in other parts of the province, they move to get away from abusive spouses, they move to go to school, for any number of reasons. When they move, their vacant unit will be up for grabs



on the market, in terms of what the market will bear for rent, and they're going to move to a vacant unit that's also going to be up for grabs in terms of rent level.

Just so you'll understand where I'm coming from in terms of the comment that there's an incentive to evict, a landlord has to put a form 1 agreement to terminate in front of a tenant and say: "Here. Sign." All that form has to say is: "I'm a tenant. Joe Blow tenant. Joe Blow landlord. The rental unit address is such-and-such. I agree to vacate on September 30." If I had a dollar for every time I've seen a tenant sign that because a landlord stuck it in front of them and said, "Here, you have to move; here, you have to sign this; I'll give you two months and you're out of here," and they sign it without legal advice, under duress, perhaps arguably, I'd probably be able to retire. It's very easy to get somebody to sign one of those things if there is an imbalance in the bargaining power between the parties, the landlord and the tenant.

I've had clients get a notice of eviction that says, "I want you out at the end of September" because of blah, blah, blah, "You don't have to move; you can go to court and have your day in court." They come in to me and ask, "Do I have to move?" They think they have to move just because they got the notice. This is the level of understanding that we're talking about with people. In my view, it would be very easy to get somebody out.

The other scam that landlords use to get people out when they want to get rid of them is the personal use one. They give a notice saying: "I'm going to move in my mother, my son, my sister, my brother. I need a unit vacant." The person moves out, and the other family member doesn't move in. It is not difficult to circumvent the court process and get a vacant possession of an apartment.

I've also seen an enormous increase in lockouts and illegal evictions in the last year such as I have not seen in the last 10. In the mid-1980s, it was very common. For some reason it died down. I had a woman phone me about two months ago, a mentally ill woman, who was out on the lawn with her furniture, saying, "What do I do?" The landlady, who was represented by a local nurse acting as her trustee, had put her stuff out on the lawn. The police were there and said: "We're not going to get involved. We'll just make sure nobody gets hurt." That's the level of protection tenants have now from eviction in this province. You might say that they can run down to the legal clinic and we'll somehow make it all work, but we're so short-staffed and overwhelmed doing welfare appeals, they're not going to get us rushing off to court to get an injunction.

The other myth I find in the proposals here is that somehow if landlords get more money from tenants through a bidding war for vacant units — and a bidding war, I might add, that low-income people aren't going to win, which I'm sure you'll hear is going to lead to increases in discrimination against low-income groups, disabled people and racial minorities in the province — if a landlord gets more money coming in as a result of the unit becoming vacant and somebody getting it through this bidding war, somehow this is going to translate into repairs being done. With all great respect to the government, that simply isn't going to happen.

There are bad landlords; there are good landlords. The good landlords are going to continue to be good landlords and do repairs, and they're going to get more money for rent to do that, and the landlords who just say, "Go whistle, I'm not fixing anything," are going to continue to do that whether the rents are increased. I've seen landlords fail to obey property standards orders. I've seen landlords fail to fix leaking roofs when the living room is full of water. To say that somehow those kinds of landlords are going to take this increased rent money and translate that into improved rental conditions strikes me as a fantasy. I guess what I'm saying in a nutshell is that giving more money to people without any mechanism to ensure their accountability to use it in the way that one would hope they would use it perhaps isn't going to work. It has been suggested that licensing of landlords might be one way to regulate maintenance and repair problems in the city.

If you have time on your way to the airport, take an extra \$5 cab ride and go by Winston apartments. It's not far from the airport. It's housing accommodation that's now shut down, empty, boarded up, 100-plus units. This is after the landlord got a half million dollar forgivable loan from one of the previous governments to do repairs in that particular building. It's empty and the state of repair before it was emptied was appalling. That's the kind of affordable housing that we had in this city and that no longer exists.

I'm going to anticipate your questions in terms of how we create more affordable housing by referring to David Hulchanski's excellent paper on rent decontrol in Ontario, that was delivered to you folks on August 22, and which I had the pleasure of reading this morning. He said if you want to have affordable housing, you have to turn a social need into a market demand. How do you do that? You put money in people's hands.

A third of tenants in this province are on social assistance. Most of them had their social assistance rates cut 21.6% last fall. They have less money in their hands, and if their rent goes up when they move to a vacant unit, they're going to have even less to spend in the local community, in the supermarkets and the clothing stores and the gas stations. Everybody suffers. You want to talk economics here. If you want to grease the wheels of the economy, you don't take money away from people. You put it in their hands or you retrain them so they can get back into the workforce. That's where I'm coming from.

Just before I make one final comment about the access to affordable housing program that recently got defunded in the city, and you may have heard about that, I want to bust the myth that the court process is too complex. It isn't. It's a very streamlined summary procedure, very little in the way of pre-trial disclosure, examinations for discovery etc. I've heard this a million times, that the system favours tenants. It favours them because they have rights. They actually get notice before they're evicted and they get to go to court and tell the judge their story, and it's not a cumbersome process, it's not a complex process and it need not be a lengthy one.

If a landlord wants to take a tenant to court, they give them a notice. The tenant doesn't move. They serve papers four days in advance of the first court appearance.



If the matter isn't resolved in front of the court clerk, it goes, in this city, very quickly into the pre-trial stream. Within a week or two, you're in front of a pre-trial clerk. If it isn't resolved at that point, particularly if there are arrears of rent, you'll be in court in front of a judge so fast your head will spin. This nonsense about it's difficult to evict is exactly that, nonsense. It isn't. I don't think tenants are overprotected and I certainly don't see any additional protection for them in anything that's in this proposal here.

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I'm not normally a harsh person when it comes to politics but I have to express my disgust at the cutting of the Lutheran Community Care Centre's access to affordable housing program. Forty-eight thousand dollars in annual funding from the Ministry of Housing was taken away from that program, which issued its last list of affordable housing about a week ago. That is the only, other than perhaps some of the student organizations, viable agency in the city of Thunder Bay that has such a program. My office sends people there every day. We won't send them there any more because it doesn't exist. Where am I going to send them now? Nowhere. I'm going to send them out to walk the street or read the newspapers to try and find a place to live. I think it's appalling, for \$48,000, that that program has been cut. There's nowhere else to send people, and these are the people on social assistance, on fixed low incomes who need that service so they don't have to pay 50 bucks to one of these rental agencies that will phone them once a week and say, "I've got a place for you."

I would urge, among other things here, that if anything can be done to reinstate the funding for that program, it be done. I understand it was defunded because Thunder Bay has a high vacancy rate. It doesn't have a high vacancy rate for low-income housing, and that's what this agency provided to the consumer — a vital service.

I have no other comments at this point. I'll let you read my very brief paper. I'm probably repeating some themes that you'll hear across the province. I'll maybe share one experience with you.

I'm very active in the injured worker community and when the Workers' Compensation Act was going to be changed in the mid-1980s there was a fairly Toronto-centric approach to protesting that. The government said, "People are complaining in Toronto so there must be no problem up north." So when the next go-round came in 1990, we dotted the map with advocates saying what they thought of the proposals to change workers' comp in 1990 and the government said, "Well, this is an NDP conspiracy because we're hearing it everywhere." If you're hearing the same thing everywhere, maybe there is some truth to it. There is absolutely no evidence that I have seen that anything in these proposals is going to create affordable, decent housing for low-income people. You show it to me and I'll vote for it.

**Mr Curling:** Maybe I can ask a question from a legal perspective of harassment. Is there any way you could define that, or could the government really come up with a definition of what is harassment?

**Mr Cox:** Whether or not harassment can be defined, my suggestion was you're creating an incentive to harass

people so they leave their unit. I've seen as an example a landlord serving a 24-hour "I'm coming in to inspect the place" notice every day for a month. That's harassment. Violating somebody's right to privacy is harassment. Treating them differently because of their colour, income, family — it's defined in the Human Rights Code. I don't think the issue is how to define it; it's how to avoid it and not to create an incentive to make it happen, to drive the person out because the landlord is driving them crazy.

**Mr Curling:** You're saying too that it's no problem at all for this process to go through the courts —

**Mr Cox:** That's correct.

**Mr Curling:** — while the Conservative members are saying that people are complaining and they have full support on both sides of this harassment, and you say the court situation is quite easy to process these cases.

**Mr Cox:** There are a lot of landlords that can't afford to hire lawyers every time they want to evict somebody and there are a number of landlords that are too cheap and there are other landlords that simply wait six months when they're having a problem before they even serve a notice. I've seen that happen a million times, and then they say, "The process is too slow." If I were a landlord, I'd serve a notice of eviction for rent arrears the minute somebody went in default, and then you've got your meter running if you want to go to court, but people don't do that. For some reason they try to resolve things informally and often without legal advice.

**Mr Marchese:** Mr Cox, thank you very much. I have two questions, if I can fit them in. First of all, what we've seen in the last six years — it's going to get worse, in my view. Wages are down. Unemployment is excessively high; it's at 10% just to keep inflation down, because these are the policies largely of the federal government. The firings are going to be to the tune of 15,000 — I suspect they'll go up to 20,000 — federally and provincially. There's a lot of part-time work. This government proposes through this proposal to increase from the guideline to the extra 3% yet another 1%, which would bring it to a potential 6.8%, and on top of that wants to add taxes and hydro as an extra burden.

The developer who came here this morning said, "We need this deregulation because we've got to catch up." How are people going to cope if this happens?

**Mr Cox:** They're hanging on by their fingernails, and I'll tell you very simply what I tell people who argue with me that there are welfare bums who should be out working: People who have no money are going to turn to crime, frankly. They're going to rob milk stores, deal drugs, turn to prostitution. That is the kind of society we are creating here. And I'm not saying this to be inflammatory or controversial. I see this happening. I read the newspapers. I see what's happening in a community and I see people sleeping on the park benches like I see them sleeping in storefronts in Toronto. This has got nothing to do with politics or ideology or anything else here. It's got to do with, is this the kind of society we want to live in? Frankly, I don't.

This used to be a safe city, but you read the paper: There are armed robberies every week; there's drug dealing; there is a prostitution problem here. If people are



broke and can't pay the bills, what are they going to do? I don't know how anybody can live on \$520 a month, whether they deserve it or not, or whether they've created their own problems or not. How can you live on \$520 a month? That's what a welfare recipient gets who's a single, employable person. Go figure.

**Mr Stewart:** Two things: First of all, in your first page where you're saying that files keep on going annually, and I guess one of the concerns I have personally and that is the fact that the availability of legal aid and the number of things — these files can go on and on and they indeed go on annually. One of the concerns I have — and you mentioned the word "accountability," the accountability of landlords — what about the accountability of tenants —

**Mr Cox:** They are accountable, sir.

**Mr Stewart:** — where landlords have to go in and spend \$2,000 and \$3,000 to recarpet because of dog doo-doo all over, cat doo-doo all over, holes in walls, and they leave? I'm not trying to be confrontational, sir.

**Mr Cox:** No, that's fine.

**Mr Stewart:** How do we put accountability on the tenant? If we're going to have a level playing field in some type of new legislation, how do we protect both parties?

**Mr Cox:** There is accountability for the tenant now. They're responsible for cleanliness. They're responsible for damage done by themselves, their family and their guests. They're financially responsible. With any problem where you owe me money and I want money from you, if you don't have money I'm not going to get it.

**Mr Stewart:** That is a make-work project for lawyers, sir, because that —

**Mr Cox:** No, I don't think so.

**Mr Stewart:** — is not what's happening. You know the amount of trashed apartments in some places —

**Mr Cox:** I've seen that happen, yes.

**Mr Stewart:** — and the landlord either can't take them to court or can't be bothered and goes ahead and fixes it. That's the type of thing I'm talking about and I believe if we're going to have a level playing field we must have it for both parties.

**Mr Cox:** If I were a landlord I wouldn't rent to somebody without references, and that's legal, to check references for people. I would also have insurance on my building and I would also expect that if there were damage done and I couldn't recoup my cost from the tenant that would be a cost of doing business, which is a tax write-off.

Frankly, I would never want to be a landlord, all right? I don't disagree with you there are bad tenants. But there is protection in the legislation. The law says that a tenant is responsible for damage. If they don't make good on fixing up problems that they've caused, either by giving money to the landlord or doing the repairs themselves, they can be evicted for damage to the property, and the landlord can get a court judgement against them, seize property from them etc.

Landlords are like anyone else, faced with collection problems. But tenants aren't the only deadbeat debtors, if there are some tenants who are deadbeat debtors. There are creditors after debtors for money all the time and they

can't collect. But I don't see anything in the proposals here that's going to make it easier for a landlord to collect when somebody puts a hole in the wall, which doesn't happen that often.

**The Chair:** Thank you, Mr Cox. We appreciate your input this afternoon.

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## THUNDER BAY AND DISTRICT LABOUR COUNCIL

**The Chair:** Our next presenter is Michael Poleck, the treasurer of the Thunder Bay and District Labour Council. Good afternoon, sir. Welcome to our committee.

**Mr Michael Poleck:** The Thunder Bay and District Labour Council would like to thank you for the opportunity to present our views on this important discussion paper on tenant protection.

We are glad the hearings are being held across the province. However, to state up front, we object to them being restricted to the 9-to-5 scenario. Many people who rent their accommodations work during these hours. Getting time off to attend a public hearing or a consultation such as this is difficult and in most cases impossible, so you don't hear from the people who are really affected. How does this government expect to hear from those who would be most affected by any changes to the legislation if they're denied access to the consultation process?

We recommend that in the future these types of hearings be held with both day and evening time spots for presenters. For example, if there can be only one day in each location, instead of spending 9 to 5 in Thunder Bay on one day and rushing off to Sault Ste Marie for another round of 9-to-5 hearings the next day, why not start the hearings in the afternoon at one location, go through the evening and repeat the process at the next stop in the tour?

Today we'd like to focus our presentation on a few main points raised in the New Directions tenant protection legislation discussion paper. The areas that we're addressing would be: (1) the end to general rent control; (2) the profits for landlords; (3) new housing construction, and (4) housing strategy.

In addressing the end to rent control, the proposed legislation continues the rent cap brought in by the NDP government in 1992 which covered all units, but the changes being planned include only renters in their current units. Once they move out, for whatever reason, there is nothing to prevent the landlord from jacking up the rent to any level they feel is possible to demand. With no cap for all units, there will soon be no cap for any unit. Furthermore, it appears that the new units will be exempt from rent controls forever. What kind of tenant protection is there there?

The discussion paper states that people looking for a place to live negotiate an appropriate rent with those who have rental accommodations to sell to the highest bidder. This is political propaganda at the level of garbage. In the real world, two parties who negotiate each have some power that they can levy. When a prospective tenant wants to rent a particular dwelling, what power is there against the amount of rent a landlord wants to charge?



Scuttling a universal cap on rent increases puts undue hardship on the working poor and on those who are forced to rely on some form of government subsidy because they can't find work. The cancellation of rent controls will hurt women and children disproportionately, because most families who have to rent their living quarters are headed by women. Numerous studies have shown that children who grow up in poverty have a very difficult time escaping from it. With virtually no rent controls any more, families who have to rent will wind up spending more on housing, which means less on food, health care and other necessities. If this results in increased social and health problems, it further taxes the already overburdened and ever-shrinking social safety net.

Eliminating the rent registry is referred to in the discussion paper as a way to simplify administration, thereby saving the taxpayers money. But in reality, what it does is make it impossible for renters to know what the previous tenants paid, so they will have no way of knowing if the amount of rent being asked by a landlord falls within reasonable limits, and not only reasonable limits, but it doesn't give them a base to draw on when they're doing their negotiating.

Profits for the landlords: Landlords claim that the existing legislation restricts them from spending the money necessary for proper maintenance and improvements on their rental units. The reality is that landlords never provide anything for low-income tenants except when forced to do so by legislation, in most cases. Landlords welcome the changes proposed by their friends in government, because with every changeover in tenant, they have another opportunity to increase the rent and therefore increase profits. There is nothing in the legislation that protects tenants from landlords harassing them, whether verbally or by not keeping the units in safe and proper condition, until they have no option but to leave.

The proposed legislation gives municipalities increased powers to inspect and enforce building repairs. That sounds good — giving more powers to local governments, bringing governments closer to home — however, there isn't any mention of increased transfer payments to pay for the enforcement officials that would be required. Also, by weakening the province-wide minimum standards, tenants are left to the mercy of the landlords and fragmented efforts of municipalities to enforce the standards. What might look good at first glance turns out to be another one of the Conservative government's attacks on the living standards of the people of Ontario.

In terms of new housing construction, we condemn the Conservative government's cancelling of most of the not-for-profit housing initiatives so soon after taking office last year. These units would have provided accommodation for many families who rent. The local Labourers' union project alone would have resulted in construction of 20 new units especially geared towards working families, including those whose members have disabilities.

Not-for-profit housing construction creates many jobs for the community, first in the actual building of the units, then in the materials and services needed to furnish them and to make repairs. The unemployment rate in our community is around 10%. Some of those who are out of

work are experienced construction workers. Instead of relying on federal unemployment insurance or municipal social assistance, it would be better for unemployed workers to be working and contributing to the community.

Housing strategy: We would like to be able to commend the government on its dual initiatives of trying to protect tenants and at the same time proposing a strategy to address many of the housing needs in the community. However, we cannot find any reference to a housing strategy in either the discussion paper or any of the accompanying legislation; for example, the Landlord and Tenant Act. This is a golden opportunity for the government to make good on its election promises of looking after Ontarians better. All we see is the government eliminating barriers to higher profits for the rich through increased exploitation of the poor. So far we have seen no evidence that the Conservative government cares a whit for the people of Ontario, while we see example after example of where the government caters to demands by its rich friends to relax or cancel legislation ranging from protecting the environment to protecting workers on the job, to protecting tenants from unfair rent increases.

There are many other points mentioned in the discussion paper which we are certain other presenters will refer to in their interventions; and I've heard some. We will conclude our contribution by saying that the people of Ontario have worked hard to create a society where we can grow and thrive, knowing that many basic human needs — for example, health, education and shelter — are being met through good and progressive legislation, and we refuse to allow a pro-big-business government to bully us into accepting anything else.

That's the extent of our presentation.

**Mr Marchese:** Mr Poleck, the Conservative government says it doesn't want to build non-profit housing and cooperative housing. In fact, they say very strongly that what we have done is a failure. The developers say that it was a failure, that it competes with the private sector, is a boondoggle and just a waste for taxpayers. Is it your sense that the private sector is going to build housing for the working poor?

**Mr Poleck:** To go by past practice, I would say no. The reason that it was done was to meet different legislation that provided some ways of providing housing for people who needed assistance. There was legislation there. By relaxing that legislation, if that is relaxed, there's no driving force to have private interests provide that. They'll be looking for the profit only.

**Mr Marchese:** This present government said, "We need to create incentives for the private sector to build," so they've introduced this proposal which effectively gets rid of rent control by decontrolling. The report done by Mr Greg Lampert, that government report, says that's not going to do it. They know that. That's why they didn't want to invite that fellow here when Mr Curling made that motion to invite him to come before the committee.

He says what the private sector wants is the following: eliminate provincial capital tax; lower administration due to reform of rent regulations; halve the CMHC mortgage insurance fee; streamline regulations on building; cut in half the GST payable; equalize property taxes; reduce



development charges. That will eliminate that gap per unit — \$3,000. That's a lot of money.

**Mr Poleck:** We allude to that in the presentation, where the changes that you see are designed to help the landlord to increase his profits, but the protection for the tenant is not there as a counteractive measure. It's one-sided.

**Mr Marchese:** Professor Hulchanski, who was quoted by Mr Cox earlier on, also says that even if you give all that away, which is something we have to absorb as taxpayers, the only thing built will be at the high end. It won't take care of the needs that so many here today have advocated on behalf of.

**Mr Poleck:** That's the point we were trying to make, that the landlord is not trying to accommodate the lower end; he's there only to operate where there's a for-profit area. If he can't make the profit, then he doesn't want to be concerned with it. That is going to leave out a very large segment of the population of Ontario who have worked, paid taxes and contributed to the standard of living the province enjoys right now.

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**Mr Parker:** Thank you, Mr Poleck, for appearing this afternoon and for your presentation. You've delivered a very clear message this afternoon: You don't much like the proposal that's being circulated right now for consideration.

I represent the riding of York East. That's a Metropolitan Toronto riding. I have a large number of tenants in my riding. I have a large number of rental buildings in my riding. Many of these buildings are high-rises. Many of them are getting quite old. I have a virtual parade of tenants to see me in my riding office each week telling me of the problems, frustrations and concerns they have under the rental regime we have right now. They tell me of problems of maintenance in their buildings. They tell me of problems of vacancy rates. They have nowhere to go. They feel they're held hostage by their landlords now because they have nowhere to go and no alternative to their present situation. They tell me that the landlords know that and they feel that the landlords have them over a barrel. They feel quite victimized and quite vulnerable under the current rules, the current system we have in this province.

I'm here to look for answers. I'm here to look for solutions. I want to help those people. Can you help us with some ideas as to how we can move forward and help those people who feel victimized and vulnerable under the current rules that we have at present? Remember that at the same time we've got to provide for the future as well. The population in my riding is increasing constantly. The Metropolitan Toronto population generally is increasing at quite a substantial rate, largely from people from communities like this who seek to pursue their future in the Metro Toronto area. How can we provide for the needs that we're facing now and address the challenges of the future?

**Mr Poleck:** To address those needs there's a cost factor. It has to be determined what cost that's going to be and how much society today is willing to put into it. One of the things that would address their concerns is that it would be nice to hear from them, as I alluded to

earlier, at the start, if the tenants themselves could come here, rather than people like myself representing an organization. What you need to do is hear from the tenants. They're the people who are living in the situation. They're living out the real horror stories that happen in the apartments in the different complexes.

As it was pointed out in the previous presentation, if society isn't prepared to pay for people, or to put some money towards giving them some basic provisions of life such as shelter through apartments, they're going to turn to a life of crime. They're going to look after themselves in the only way that is left, and in a lot of cases it does include turning to crime, which is going to reflect and affect all of us. No matter whether you're in a position where you have to rely on subsidized housing or not, it's going to reflect on the whole community and it's going to reflect on our living standards.

**Mr Parker:** What's the solution? That's what I'm here to find out.

**Mr Poleck:** The solution would be to enforce the standards that are there and to maybe put some more money into providing some of this housing through the general revenue of the province.

**Mr Parker:** So more money is the answer.

**Mr Poleck:** That's one of the answers, yes. How much and where it's going to come from have to be worked out. I'm not saying I can tell you all that in two minutes, but the feeling we have is that there has to be a certain amount of money put into it. As people living in Ontario, there's a certain amount they're owed. Through no fault of their own, a lot of people who are looking at low-income housing now are people who have lost jobs through the different downsizings and closures of companies and what not. They're not in there by choice; they're in there because of circumstance.

**Mrs McLeod:** Just to pick up on the last question, which we've heard several times, it seems to me that at least a part of the answer was offered to the government in the paper that was done for it. Reducing the cost of construction is one of the things which would be part of the answer.

I get increasingly cynical about whether this is really a discussion paper or whether the government is looking for solutions when we see it already acting on things that are part of the discussion paper. You particularly mentioned that the rent registry here in Thunder Bay disappears as of Friday, so it's no longer a matter for discussion — it's gone. I find myself wondering when they say, as you've noted, that it's a way of simplifying administration and saving money, whether or not the administration of that was going to become impossible because rents are going to fluctuate so much when they go ahead with the other part of their discussion paper, which is taking the rent controls off. How would you maintain a rent registry if the rents are changing on a fairly frequent basis? It seems to me the government is already paving the way for fulfilling the rest of its discussion paper and we are going to see a lot of rapid fluctuations in rent.

I think if you saw in this paper some solutions that were going to lead to increased building of accommodation, and particularly of rental accommodation, members



of the council would want to provide support for at least those parts of it, because we've been seriously short of construction jobs in our community. Do you see anything in the paper that is likely to lead to increased building of rental accommodation in our community?

**Mr Poleck:** Quite simply, no; not to address the issue that is there now, the low rental. There may be some building done to accommodate the high end where they can get more of a profit, where they can charge more for the rental units for the high-income earners, the people who have jobs. But when it comes to the other segment, as I call it, the people who can't afford the high rents, then there won't be. It's as simple as that.

**Mr Curling:** I think charity begins at home really, because when we look at government handling of some of this non-profit housing and even legislation and enforcement, even Lampert himself said that the duplication was atrocious. Therefore, duplication means cost. Would you feel that a better approach would be for them to sort of clean up their act inside first — get rid of duplication, get the enforcement matter going? As the lawyer said before, the system is there, but it's not used effectively. If that is done, it may help to reduce that cost and that kind of money could be used to put towards the affordability issue.

**Mr Poleck:** That is one thing we would think the government would do. If you're a company, if you are having trouble generating money or there is a problem with it, first you look internally and solve those problems. I didn't see anything in the papers that looked at an internal reorganization or an attempt to solve the duplication that you're talking about or to streamline the system. What's there is just one aspect of it: to allow the landlords to do what they want to do and just put it totally in their hands.

**The Chair:** Thank you, Mr Poleck. We appreciate your input this afternoon.

#### THUNDER BAY REAL ESTATE BOARD

**The Chair:** Our next presenter is Art Lannon, president of the Thunder Bay Real Estate Board. Good afternoon, sir. Welcome to our committee.

**Mr Art Lannon:** First of all, I'd like to thank the committee for allowing us to present this report. If there was ever a time or need for rent controls, that has long since past. Today, rent controls form a major barrier to new rental apartment construction and they contribute to the decay of the existing housing stock because landlords do not have the revenues needed to maintain buildings properly.

The Thunder Bay Real Estate Board and the Ontario Real Estate Association favour the phasing out of rent controls and their replacement with a new consumer protection package that would allow individual tenants who believe their rent increases to be exorbitant the opportunity to appeal rent increases to the government-appointed Ombudsman, who would have the authority to roll back any increases they deemed inappropriate. The best way to keep the cost of rental accommodation down is to ensure a good supply of units.

The Ontario Real Estate Association supports the right of Ontarians to own property free of unreasonable controls. We therefore oppose rent control legislation and the use of government funds to finance rent control regimes. The Ontario Real Estate Association bases its opinion on rent controls to the following.

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Rent controls inhibit new construction. By forcing rents below the market price, rent control reduces the profitability of rental housing, diverting investment income capital out of the rental market and into more profitable markets.

Rent controls lead to the deterioration of existing housing. By reducing the return on investment in rental housing, rent controls can also lead to a drop in the quality and quantity of existing rental stock. Deterioration may occur as landlords, faced with declining revenues, reduce maintenance and, at worst, lead to eventual abandonment of the property. We saw that here locally with Winston Hall.

Rent controls incur substantial administrative costs. The administrative costs of rent control are substantial. Rent controls require elaborate bureaucratic systems, and it is estimated the existing rent control bureaucracy costs the provincial government in excess of \$40 million annually.

Rent controls cost the poor. Higher-income households receive the lion's share of the benefits of rent control, but the cost of rent control falls disproportionately on the poor. Poor families suffer the market decline in existing housing as the quality of existing housing fails to respond to reduced maintenance expenditure. Higher-income tenants can simply move out of these circumstances while poorer families may lack this option.

Rent controls contribute to homelessness. The reduction in available rental units caused by rent control often leaves poorer families with no substantial housing at all. As a result, the direct cost to government in welfare and shelter programs increases.

Rent controls unfairly tax landlords. Rent controls are designed to subsidize tenant income at the expense of landlords by reducing the permissible rate of return on rental property investment. But just as important, such income transfers possess fundamental questions of fairness. Why should the burden of providing low-cost housing be borne solely by providers of rental housing?

The Ontario Real Estate Association believes effective alternatives to rent controls do exist. In our opinion the answer to the problem of scarce low-cost housing is increased housing supply, not rent control. Over time the expansion of rental housing supply will lead to a decline in rental costs. In the interim, financial assistance to the needy may be more effectively and economically provided through rent supplement programs.

Given all the above, continued reliance on rent controls as a solution to the problem of housing affordability can no longer be justified. Locally the vacancy rate has been hovering between 6% and 8% for the last two years. Rents charged have either been maintained or lowered by the majority of landlords during this period. Instead of the government building brand-new apartment units at high costs, you might consider filling the vacant, private-



ly owned units by offering a rent subsidy for certain income people.

The Thunder Bay Real Estate Board supports the recommendations of the discussion paper.

**Mr Parker:** Thank you, Mr Lannon, for your presentation this afternoon. I favour rent controls. I don't see that there is scope for eliminating rent controls in this province. Certainly under the current situation I don't see that it can be done, I don't see that it should be done, and I part company with you on that submission.

I represent a riding with a great number of tenants and I shudder at the thought of the vulnerability they would feel if rent controls were immediately eliminated and made to disappear, but I share with you a concern over how to address the need for housing our people over the long haul. Under the current system we have a situation where construction has ground to a halt. People at present feel captive in their units, certainly in my riding of York East, within Metro Toronto, where they have no place to go. There is a negligible vacancy rate, and even someone who has a dispute with his landlord or has a degree of dissatisfaction with the unit he lives in has no alternative. He has no place to go. That is a concern that must be addressed now and it has to be addressed in the long term.

**Mr Lannon:** That's correct.

**Mr Parker:** That is a concern that will only increase with time as the population increases. In my riding, in my community in Metro Toronto we are growing at a substantial rate, both from a natural increase in the population and from people moving to Toronto from elsewhere in the province and elsewhere in the world. We have been told that eliminating or relaxing or changing rent controls will not, of itself, yield an increase in housing construction. Can you help us with some other changes that would be necessary.

**Mr Lannon:** Yes, I'm glad you brought all those points up. I think the reason the board is going to different parts of the province is to see what Thunder Bay wants, what Sault Ste Marie wants, and we're in Thunder Bay, so I appreciate your tenants, and possibly if there was more competition, as there is in Thunder Bay now — remember, Thunder Bay used to be the lowest vacancy rate in Canada, less than one half of 1%. You are lucky. Being a landlord myself, we had lineups, people waiting to get into apartments. That is all gone because of the other non-profit housing coming in and everything else.

We have had a vacancy rate here in Thunder Bay of between 6% and 8% consistently for the last few years. We've got people who need affordable housing. Somebody brought up, can they bring up cheap housing? You can't build new, cheap. You figure that one out. I think the point is that in Thunder Bay we have vacancies; we have people here who need housing. Instead of spending \$60,000 to \$80,000 per unit to build these units for people — that are brand-new, and I can't figure out why they have to live in brand-new anyway — why not subsidize specific people for units in Thunder Bay? That solves all the problems we have locally and solves the tenants' problems and the landlords' problems. No problem.

In Toronto I assume that you don't have any competition, and the reason for that is that there's been no supply put on the market because there's no incentive. From the landlord's point of view — my mother-in-law lives in Toronto. She doesn't even see her landlord because there's just no money to do it. If there was competition you would see what happened in Thunder Bay, which was less than one half of 1%, now to 8%. We haven't raised — in fact, last year we lowered our rent in Thunder Bay, the first time in 30 years of being in business. That's insane. If you have competition you'll do that, and maybe that's what Toronto needs, but in Thunder Bay, where we are, and this is where the hearing is, this is how we can attack all the problems, in this room, quite simply without spending a lot of money on units, which I can't believe was even thought of to start with. The people in construction — that's fine. There's lots of commercial out there to build. They can do different things. They don't have to just build apartments.

**The Chair:** Mr Maves, have you got a quick question?

**Mr Maves:** I was going to ask for an explanation of what exactly happened at Winston Hall, but I hope you can give a really quick answer.

**Mr Lannon:** Actually, I can. What happened at Winston Hall, in my opinion from reading the paper, was that the landlord pretty well — there's no one living there now. I don't think he could afford to maintain the building. It was an older building anyway.

**Mr Maves:** Because of rent control?

**Mr Lannon:** I don't think it's because of rent control. I just think that his maintenance costs were probably too high. I shouldn't speak for him; I was simply setting an example of someone who pretty well walked away from the building because he just couldn't handle it any more.

**Mr Curling:** Mr Lannon, the guidelines that are put in place, even now that it's 2.8% — look at it that way — included in that are all the building's operating costs and also the fact of a fair return on investment. All that is taken into consideration. Even with that, you said that's not good enough. If we remove rent control, in which the rent guideline gave all landlords provisions to make a profit, \$10 billion worth of repairs are there and no repairs were done, what will they do with the money?

**Mr Lannon:** What are landlords doing with this money?

**Mr Curling:** The money that was being calculated in the guidelines in order to do repairs.

**Mr Lannon:** You've got little guidelines that go up 3% or 4% every year, whatever it is, you've got municipal taxes going up, you've got utilities — they used to go up except for last year.

**Mr Curling:** They're taken care of in the guideline, all of those things.

**Mr Lannon:** If they were, there's still not — in fact, when they dropped the MURB program, things went down too. You're aware of that program.

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**Mr Curling:** I'm glad you said that, because you said that those are incentives that government was giving to the private sector to build —

**Mr Lannon:** That's correct.



**Mr Curling:** — and they were only building affordable housing when they got government incentives.

**Mr Lannon:** Not affordable housing; any kind of housing.

**Mr Curling:** I'm saying that our clue in all that funding where taxpayers' money was given to the private sector to make affordable housing accessible to those who —

**Mr Lannon:** They were taxpayers' credits that were given to developers, not taxpayers' money. They didn't have the money to start with, so they didn't give it to them. The MURB program was a tax benefit, if you recall.

**Mr Curling:** Of course. Regardless of what it did, government supported that.

**Mr Lannon:** Oh, definitely, and that stimulated the growth. What we need in this province is long-term solutions, we need a rent supplement in Thunder Bay — I don't know about the other part of the province; I don't speak for them, but in Thunder Bay we need long-term solutions. I think we need that throughout here, and this is what I'm hearing through this whole thing. We need rent supplements for lower-income people that will fill the buildings that the landlords are just scraping by to get on now; so now you've got the tenants happy because they've got a place to go, you've got the landlords happy because their buildings are full again and you've got the government spending less money building these — I can't believe that they spent money building these new buildings. So you're saving money all the way around. I do not see a loss. You're looking for solutions? There are some solutions.

**Mr Curling:** A 6.8% vacancy rate came about, let me tell you, by rent control, because you're saying that when it started at 1.8% there was rent control in place. Rent control continued and this government intends to stop it. It's 6.8% now, but rent control was the great monster. How, if it was such a great monster, did the vacancy rate become 6.8%?

**Mr Lannon:** Why is it 6.8% in Thunder Bay today?

**Mr Curling:** Yes.

**Mr Lannon:** I'm assuming your figure is correct. I know my own buildings are over 10%, if you want to know.

**Mr Curling:** Okay, 10% then.

**Mr Lannon:** Okay, whatever it is. Lower interest rates, people bought houses, that sort of thing, and they also talked about people who are only building for higher-income people. If you take someone from unit A and move them into, let's say, a higher-cost unit B — which they probably won't anyway; they'll probably buy a condominium, but say you're building these luxury apartments — that creates a void that can be filled by somebody else. You get the higher vacancy rate at that level and it brings the rents down. This is simple market economics. It's very simple.

**Mr Curling:** So rent control was not the monster that it is —

**Mr Lannon:** Initially when rent control came in it was a feared monster. In fact, as a landlord even at that point, in my early career in real estate, I never raised the rents until rent control came in, and then I had to raise them

because if I didn't jump on, I would lose every year. So yes, rent control in the beginning initiated, for certain landlords or tenants, an increase in rent automatically, because if you didn't jump on, you weren't going to get it the next year.

**Mrs McLeod:** The definition of a shelter allowance program essentially is that it would pay the difference between what is considered a reasonable proportion of your income to spend on housing and the market rent.

**Mr Lannon:** Sounds good.

**Mrs McLeod:** First of all it's an uncontrollable cost for the government. If a government were to say, "We're going to replace all non-profit housing with shelter allowance and we'll go with the classic definition, which is that X percentage of a person's income would be spent on housing; here's the market rent in this community, therefore our shelter allowance will be the difference between what that person can afford and what the market rent is," that's an open-ended budget for the government. Do you think the government can afford that kind of program?

**Mr Lannon:** First of all I don't know whether that's an open-ended budget, because you've got individual people and, as somebody else said here, 20% move, come and go all over the place anyway. You've got 20% of the market moving around constantly. You've got people who won't be spending their whole life getting this money from the government and they hopefully won't need it any more, so that takes care of that. All I know is that when you started building non-profit housing and stuff like that, the price of vacant land per unit tripled in Thunder Bay, and I can show you. You used to pay \$3,000 per unit for a piece of property. That went up to \$10,000 in a few years.

**Mr Marchese:** Mr Lannon, you began your discussion by saying that rent control is a major barrier to construction. I have read much of the Lampert report; I've read very closely Professor Hulchanski's article which he submitted to this committee, and Lampert was hired by this government to do a study for them, and even he says that rent control is not the barrier. The major barrier, as he says, is one of the things you probably touched on, which is that you've got a whole lot of problems to eliminate to reduce that gap that it requires to build to make it affordable.

**Mr Lannon:** Oh, definitely, there's not just one solution.

**Mr Marchese:** But you said —

**Mr Lannon:** But I don't see the need to build either, so —

**Mr Marchese:** The real question for me, the first part at least, is, what evidence do you have that rent control is a major barrier to construction? Because I haven't read any in that regard.

**Mr Lannon:** When rent control came in, and that's been a long term, maybe rent control was one of the barriers to that problem. The problem that we have here — and we can debate opinions back and forth, but I think you're looking for solutions, and the solutions to me are extremely simple. You've got apartments in Thunder Bay vacant. You've got landlords who haven't raised their rents at all. You've got people on the streets



who haven't got a place to live, but the previous government insisted on building apartment units, brand-new, at about \$80,000 or \$70,000 a crack, on average, for these people to live in. That to me does not make any sense whatsoever. These are very simple solutions.

**Mr Marchese:** I understood that. Oh, no, I understood that. I made note of your solution to that regard. But I also made note of your assertion that rent control is a major barrier to construction, so I ask —

**Mr Lannon:** Yes, it is. It's one of the barriers. It's not the only barrier.

**Mr Marchese:** You said "major barrier." We don't see in any of the literature that I've read that it is a barrier.

**Mr Lannon:** They're welcome to their opinions. That's my opinion.

**Mr Marchese:** I understand, okay. So it's an opinion that's not shared by any evidence I have read. Okay.

The other problem is that they're not building. In basic conservative kind of economics, where there is supply, there is demand, no? You would admit that?

**Mr Lannon:** Yes, definitely.

**Mr Marchese:** If there was a demand, would you not say there would be a supply?

**Mr Lannon:** Real estate moves slowly. If there's demand, then it takes sometimes two to three years to fill that demand. What we're talking about here is long-term solutions. Housing isn't like a car, where you go down and buy it: "I need a car; I'll go buy it." Housing has to be planned years ahead. A planned subdivision takes two years to get through.

**Mr Marchese:** Oh, I understand that too.

**Mr Lannon:** An apartment building needs at least a year to get through.

**Mr Marchese:** I understand all of that. That's why it's going to be a disaster, in my view, in most parts of Ontario in the next many years, because there won't be any construction, because there's no demand.

**Mr Lannon:** There hasn't been any construction.

**Mr Marchese:** Exactly, but because there is no demand.

**Mr Lannon:** In Thunder Bay there used to be demand. There isn't any more.

**Mr Marchese:** All right. Professor Hulchanski says if there was a demand —

**Mr Lannon:** If there was a demand —

**Mr Marchese:** If people had money —

**Mr Lannon:** In his riding he's got a demand, so they should stimulate those landlords to build buildings.

**Mr Marchese:** I see. So in his riding, and I'm in downtown Toronto in Fort York —

**Mr Lannon:** Okay, so probably your riding too.

**Mr Marchese:** We have a problem in terms of meeting the needs of the working poor. So what you're saying to them is, "Don't build in Toronto." You're saying, "Build there and give them all the incentives they need."

**Mr Lannon:** Why not?

**Mr Marchese:** So when the government builds, it's not incentive, but when we have to give to the private sector a whole list of things which I can read, but you're probably familiar with them, you're saying that's incentive, that's okay.

**Mr Lannon:** I'm actually not familiar with any of that stuff.

**Mr Marchese:** Let me read them to you.

**Mr Lannon:** But I'll tell you, if you want the government to build something and you want the private sector to build it, I'll tell you right now, the private sector, and this is no secret, will build it a heck of a lot cheaper than the government.

**Mr Marchese:** So why aren't they building?

**Mr Lannon:** Because there's no incentive to.

**Mr Marchese:** What do they need?

**Mr Lannon:** They need tax breaks.

**Mr Marchese:** Oh, I see.

**Mr Lannon:** Not the money that they had; the money that they didn't have to stimulate tax breaks. If you don't have an investment, I don't care if you're real estate investing or stock market, if there's no incentive, no one's going to build.

**Mr Marchese:** So the private sector will build much better than governments if you give them tax breaks.

**Mr Lannon:** No, I didn't say better; I said more economically.

**Mr Marchese:** More economically?

**Mr Lannon:** That's right.

**Mr Marchese:** If you give them the tax breaks, however.

**The Chair:** Thank you, Mr Lannon. We appreciate your input this afternoon.

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## DUKE'S TRAILER COURT

**The Chair:** Our next presenter is Bill Duke and Ellen Duke from Duke's Trailer Court. Good afternoon and welcome to our committee.

**Mr William Duke:** Good afternoon. It's a pleasure to get on this board. I've had a problem for a long time. As far as being a landlord is concerned, I've been a maintenance man, a tenant and I've travelled across this country and I've seen good landlords, bad landlords and I've seen good NDPs and bad NDPs. As far as I'm concerned, you forget it. You're lost. You blew everything.

**Mr Marchese:** Thank you very much, Mr Duke.

**Mr Duke:** I've listened to you, all your hearings, on television; I didn't miss any. I appreciate a lot of people coming up and voicing their opinions. But there's welfare people who've been on welfare so long they know the system inside out. They come in, they get rent. If they don't like the landlord, they trash the place.

I know fellows in town who are selling their apartments because they can't do anything with them because this Landlord and Tenant Act, it's deplorable, as far as I'm concerned. It's all for the tenant. You've got good tenants and bad tenants. I've thrown tenants out. Before they brought this landlord and tenant bill in, as being a worker, and a hard worker, in equipment and everything, I've been called the villain.

But some people don't understand English, just like the other day I had a problem. If I stole a glass off you, I'd be thrown in jail. Some people can get away with it. I can't do anything about it, because I'm small.



But I appreciate this interview. I feel sorry for some of the landlords, because I know just what the heck they're going through. But I don't want to take all the blame, and neither have the landlords got to take all the blame. We can't build houses and give them away for nothing. Do you own an apartment? Do you work for nothing?

I worked for \$1.65 for 38 years for my parents, and I've been stuck under trailers. I've taken them to the hospital and everything. So nobody can call me a bad landlord. When a person who owns something can come in and then rent it up for more than I can and he doesn't do anything to his building, and then I've got to go to court with him? I've got to spend \$10,000. That's it. I'll let her read it.

**Mrs Ellen Duke:** Our names are William and Ellen Duke. We're the owners of Duke's Trailer Court, which is situated on Lakeshore Drive in the township of MacGregor. It's approximately three miles from the city of Thunder Bay.

We purchased the trailer court last November from the estate of Bill's parents. Even though we knew of existing problems with rent control and everything, we went ahead with it. This is not only a family heritage, but Bill's and my own sweat, blood and tears and a lot of long hours dedicated for the future of our children and grandchildren.

Bill's mom and he started the trailer court in 1958. There were originally 30 trailers. These were cut down to 13 sites because of the size of the increase of the mobile homes. At the beginning there were overnight trailers. With the construction of the expressway going through, we lost all that trade, so we then went into the permanent trailers. The contractors messed up the septic systems, which failed and had to be redone.

Mobile parks were not favoured 30 years ago, so we worked with all the ministries concerned to build a model park that would be over and above regulation standards. To comply with government standards in the early 1990s, Bill's parents were required to install a water treatment system. Now, Bill's mom and dad opted for the ultraviolet laser system, rather than the chlorine. This ultraviolet system would supply quality water free of harmful bacteria and minerals to our tenants. The septic system also had to be replaced at this time, and then in 1994, the existing water lines were all replaced. Our son did this contracting work at cost for him.

These two major repairs were not paid off when Bill's parents both passed away, and loans were obtained and we had to assume them also when we bought the trailer court.

Bill personally did the majority of the work: the grading, the snowplowing of the roads, maintenance of the water supply and the septic system and maintained the grassed areas separated and apart from the trailer lots.

In 1987 Bill had a motor vehicle accident in which he had a broken neck and became disabled. Our son and daughter took over the majority of the upkeep of the trailer court at that time. I'm sure the majority of you have done extra stuff for your parents for which you did not receive anything, and this we did for Bill's parents for that too.

At the time we bought the trailer court it was in debt but we believed we could turn it around, not making a huge profit, because we're not that kind of people, but enough to pay for the maintenance costs and a cash account to cover possible major expenditures such as in the future maybe there might have to be water lines laid or a sewer field or maybe the pumps and everything in the utility room might have to be replaced, which is a lot of money.

Our court consists of 13 trailer sites and three service lots. Presently, our basic rent is \$109 — and this trailer court has been in existence for 30 years — plus we get \$3.13 a month for garbage pickup and approximately \$13.11 for an above-the-guideline raise which was for the installation of the water line and the sewer system. This totals \$125.24 and breaks down to \$4.17 a day. I'd say that's pretty cheap rent for anybody. Daily income totals approximately \$50.04.

Our mortgage payments run \$48 a day, roughly breaking down to \$1.96 a day, but it doesn't leave much for things like grading the roads, snowplowing, heating fuel for the utility room, hydro for the utility room, the plumbing, the water system maintenance and the cost of weekly water samples. Now that there's no provincial lab here, we have to send our water samples out of province or down into eastern Ontario at a cost of \$30 per sample, so there's another \$120 a month that goes for that. The garbage collection brings us in \$37.50 a month. In order to have somebody collect this, we have to pay them \$100 a month. At this point, we are now in debt about \$120 to \$125 a month, and this doesn't include any legal or professional fees.

As new owners, knowing the history of this park, we were granted the above-board increase of \$3, which was really not sufficient to keep up any maintenance; like, you're paying \$100 a month for grading of the road. To the present date, Bill and our son have supplemented the trailer court from their own incomes, and Bill is a disabled pensioner. We sort of have asked, does the rent control board feel we are able to sustain the guideline quality operation on a negative income?

To provide the same service, we would like to at least try and get \$50 a month more per mobile unit. This would bring us in maybe a couple of hundred dollars to put away in the kitty for maintenance or big expenses, to cover our expenses.

Through inquiries that we've had through Thunder Bay, we have discovered that most of the trailer parks charge for an eight-foot-wide trailer \$130 a month, and then for the wider trailers they go up to \$214 a month. This is quite a difference in rental area and we would like to try to get it so that it's on a comparable measure. One unit in our trailer park pays rental fees for a year of \$1,520.

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On top of financial issues, there is also the issue of tenants and landlords. There seems very little in the act pertaining to mobile home parks. When we checked into this about a year ago, we found one little blurb I think about three lines long and that was it. The rest of it we have to take on a basis of apartments, the same rental as



apartments and what not. The rights have been shifted extremely from the landlord to the tenant. The board handling the complaints and rulings should include in their examination of facts a field trip out to these things and not let issues go to court when landlords comply with the guidelines.

At present we have two privately owned trailers. Some gentlemen previously spoke of the old age thing of having tenants move because we want to use the land for ourselves, which we do. We are living in Thunder Bay, in the city, and we want to move back out where our business is. This one trailer has been sitting empty for over a year. Although he does pay his rental every month, he's not there so there's no yard maintenance, there's no maintenance to the trailer. It's sitting empty where we could use it. We have sent him the eviction notice and put on there, "60 days, for the landlord's use." They were supposed to move the trailers on June 30. One on site 2, as I said in here, has been vacant for more than 12 months. The second one on the site has had tenants until June 30. Both of these units are owned by one family and they have really not been very cooperative in the least. We can't even talk to them. So as a result of this, we have to take them to court, which is going to cost us anywhere from \$1,000 to \$10,000.

As new owners we required leases be signed. They refused to sign. We had a revised lease drawn up, reviewed by our lawyer. Refused to sign; they were out of town until March 15. It's now August; they still haven't signed it. This is not their primary residence; these people are living within the city limits.

I put in here, one of these tenants, one member of this family, has been slandering the operation of the trailer court and everything. Even though we are owners of the trailer court, we do not directly have any mail or anything come to us. It comes to the caretakers of Duke's Trailer Court, which we are not. We have sort of been viewing this behaviour as harassment to us and overstepping the guidelines of the Landlord and Tenant Act.

The buildings, units and grounds have little or no maintenance. The grass has been cut twice this year. The pre-existing bylaws, which he did sign prior to Bill's mom's and dad's death, require that the owners keep their units at an optimum state of repair and the grounds around them the same.

I could go all through these things that have been done, but we sort of feel that our hands are tied. We can't even move on to our own property because somebody has signed a lease with the previous owners and not us. That really doesn't seem fair to us.

We as landlords are legally bound by the government legislation, the caps on rent and by tenants who seem to have more rights than us. We have given more than we can afford and cannot give any more. Do we have any alternative or do we adopt government policies in accordance with their cutbacks to decrease the quality of service in Duke's Trailer Court?

**Mr Curling:** Thank you for your presentation. I am glad you could make it here. There's no time for a question, but it seems to me that the problem, as I read this — and it's very unfair for me to make any extended

comment on this, but it seems to me there's a breakdown between the landlord and tenant; as a matter of fact, the tenant themselves not adhering to the court situation.

I just wondered too though that if you have a lawyer in this to carry it through the court, because the person must carry through the court the decisions and actions that are taken by the court. As I said, it's such a short time to comment on this, but there seems to me personally — and I know that the Landlord and Tenant Act did not cover very much of mobile homes.

**Mrs Duke:** No, there was just three sentences.

**Mr Curling:** It is one of the areas itself that should be —

**Mr Duke:** This fellow stood there with a tape recorder taping me. He told the Landlord and Tenant Act over here on Victoria Street that — I've got a stock of letters that he wrote. He's never done an honest day's work in his life but he seems to know more about my business. He even accused me of using water from my other property, which I gave to my daughter. I used my well when they blasted on the expressway, and when Hydro blasted that blew my wells all to hell. It cost \$35,000 for water and then he's accusing me of using water and he doesn't even pay for it. I can't charge for water because the Landlord and Tenant Act says I can't, but the government made me put in an ultraviolet system. I've got to go by your rules, but —

**The Chair:** Mr Marchese.

**Mr Marchese:** Mr Duke, I guess there is something that I have been saying all along that has displeased you. Is that correct?

**Mr Duke:** That's right. I've listened to you on the radio and you don't make me happy. You never make me happy because I live under fear of governments.

**Mr Marchese:** I can understand. So what specifically did I say that makes you unhappy?

**Mr Duke:** Just what you're saying and the way you present yourself. You're cutting everybody down, but you were for unions and I formed a seafarers' union, the hoisting engineers, and the unions screwed themselves. Now they've got those high wages. There are people out there who don't want to work. I've never been on welfare, I've never been on pokey or whatever you want to call it, but I've worked all my life and I wasn't scared to work. I worked for less than minimum wages. If you call \$1.65 an hour for the last 38 years and using the scythe to cut grass, and subsidizing — I built the fire department out of my own pocket. It cost me \$700 a month for phone calls to get a volunteer fire department going. I fought for unorganized townships. I've worked hard in my community.

**Mr Marchese:** I believe you.

**Mr Duke:** But a lot of these kids I feel sorry about. I've got grandchildren who are too lazy. It's like flogging a dead horse. They don't want to work.

**Mrs Duke:** I think what we'd kind of like to see if the rent basis — like somebody said, it's going to be 2.8% this year — I'm sure, every trailer court if they could get here — should their rent increases not be over and above places like apartment buildings, condominiums? Trailer courts have to supply their own water so they require more money. They have to do all their own maintenance



for roads and things like that, which is all out of their own money.

**The Chair:** Maybe Mr Smith might be able to shed a little bit of light on what the — we're a little over our time, but can you —

**Mr Smith:** Well, perhaps. First of all, I would like to thank you for coming forward because it's important for us to hear from small-based, family-owned businesses. You've raised an important issue with respect to services. What this position paper does is address your ability as a property owner to pass through costs to tenants resulting from a public agency order such as the one you referred to with respect to water treatment and the ultraviolet. So this paper is addressing that issue on your behalf.

What we have asked you, though, is: What is the appropriate cap level that might be applied to that type of pass-through cost? Certainly in my riding, we have parks of this nature that have some substantial infrastructure costs. Not only are we looking at municipal water supply, but the provision of a full municipal sanitary sewer. So that particular type of issue is in this paper and we certainly welcome any thoughts you might have as to how those costs could be recovered and if any cap should be applied to flow-through dollars on infrastructure improvements.

**The Chair:** Thank you very much, Mr Smith. Thank you very much, folks. Unfortunately, we've been pretty tough on the 20-minute thing. Maybe Mr Smith could answer a couple more of your questions outside, or Mr Hardeman. Thank you very much.

**Mr Duke:** I'd appreciate it.

**The Chair:** By the way, Mr and Mrs Duke, Mr Marchese's not really that bad a guy.

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### WOLFGANG SCHOOR

**The Chair:** Our next presenter is Wolfgang Schoor. Welcome, sir, to our committee.

**Mr Wolfgang Schoor:** The review of the documentation pretty well speaks for itself, but I will read the material that I have presented to you because I believe the tenant protection package is incomplete, but at the same time, a good start.

I requested to participate by way of this consultation paper on rent control. This contribution will add another dimension to striking the desired balance. Although my experience as an independent landlord and ergonomic design specialist for built environments encompasses all aspects related to the Landlord and Tenant Act, the focus of this presentation chronicles around landlord and tenant relationships and ethical issues associated with rooming- and lodging-houses. These types of living arrangements are not mentioned in the minister's document but they are indeed an important overlooked segment in the housing market, as well as in the Landlord and Tenant Act.

Problems: In the past, conditions such as frustrated landlords, poorly kept buildings and certain unruly destructive tenants have resulted in debilitating accidents, deliberate destruction and even fatalities in lodging-house fires. For example, two people died in a lodging-house

fire in 1993 here in Thunder Bay. Since then, many other lodging-house fires have occurred here in Thunder Bay and elsewhere in the province.

The Ontario Landlord and Tenant Act spells out the legal rights and obligations for both the landlords and tenants. Landlords feel there is an imbalance in the act favouring tenants. Tenants in contrast feel that landlords are favoured. These conflicting attitudes often reflect in destructive and violent behaviour. These problems are more visible and apparent in rooming- and lodging-houses. Facing these hazardous, unhealthy and dangerous conditions, typical landlords become frustrated, lose confidence in the legal system and eventually move elsewhere, or sell the building outright.

These events earmark the end of destructive cycles and can often be the beginning of new violent destructive cycles. At times, these new cycles are reflected in even more severe destruction when tenants continue in their destructive and anti-social behaviour. As a result, landlords take steps which are illegal at times to protect their property.

Preamble: We must stop these vicious trends of people's continued destruction, which is fatal at times. We must also stop the senseless anti-social behaviour within lodging-houses. Specific tenant behaviour creates notions and a stigma for the absence of any human rights. People directly affected by these unruly and deadly — I repeat "deadly" — notions are innocent inhabitants of rental units, people within and among the neighbourhoods and, of course, our own families and friends.

Many of these types of problems cannot be solved by simply adding more laws, which are broken and not enforced anyway, but within a framework of moral and ethical issues which are the emphasis of this presentation.

In general terms, main issues of ethics are tenant satisfaction versus landlord profitability. This analogy leads to two critically important questions: (1) What are the legitimate needs of the tenants? (2) When is it justifiable to put the tenants' needs aside in favour of the profit needs of the landlord? And this is what we've been hearing all along.

The answer cannot be found by simply manipulating and changing the Landlord and Tenant Act. Important issues have a tendency to crop up between the rules — in other words, it falls through the cracks or it comes up through the cracks — in the presently uncharted territory of rooming-houses, where there is no clear precedent, no obvious right or wrong answer.

The next question can be, are sincerity, goodwill and common sense enough for the landlord to create a harmonious relationship between the tenant and the landlord? The so-called golden rule is just too simple an approach, mainly because it assumes that everyone has identical needs.

A great deal of insight into the tenants' situation would be required before the landlord could make truly ethical decision. For example, when is it ethical to evict a tenant or when is it ethical to refer a tenant to an organization which perhaps would be in the position to make better or well-informed decisions with the best interests of the tenant in mind? This leads to yet another question. Does the tenant then become a client? Does the landlord then



become a social worker, should he or she be paid for their efforts, and who will pay them?

The landlord cannot know whether he or she is acting to the advantage or to the detriment of the members of the entire cohabitation system or of the rooming-house. For example, many disastrous mistakes are made with the best of intentions. A kind-hearted landlord decides not to act upon a tenant who may be feeble-minded, young, old or frail, or may have alcohol or drug-related problems, even though he or she persistently defies the house rules or the Landlord and Tenant Act. The situation grows worse and worse until finally a disaster occurs. Then people suffer or die, which they have before, and criminal charges are laid as a result.

Were the landlord's intentions good? Of course they were, but still this led to the disaster. Landlords are motivated in many ways. The ethically motivated landlord believes that he or she should take into account the welfare and safety of others along with a multitude of other factors.

In many cases landlords and tenants intend to manipulate one another to adjust to what they think is reality and to make them conform to a pattern that seems logical from their own top down, to make the others accept unquestioningly what they tell them. The evil of this method is repeated violations of human dignity, human rights and freedoms. It becomes a technique for manipulating one another, which often requires, as it does now — it's very important — new laws.

There are, however, differences. Critics and special-interest groups may ridicule landlords for resorting to manipulation whenever they try to minimize conflict and gain acceptance for gaining positive changes. But is there anything objectionable about efforts to weigh and quantify alternative courses of action and to select the one that avoids problems? Is it not highly desirable for the landlord to enlarge his perspective to include rational solutions to its problems?

This brings an entirely new question. Does the humanistic approach impair the landlord's efficiency? In the process of trying to understand tenants, the landlord may lose sight of his or her primary objective, and this is "housing people profitably." Does this mean that the landlord's job is to house people exclusively for the sake of profits, while at the same time let the tenants worry about themselves? Historically, our legal system has encouraged such attitudes.

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In conclusion, in the past many techniques have been developed by landlords and tenants alike.

(1) In the manipulatory process some problems are created and other problems are magnified by misunderstandings and poor communications. Many of the problems cannot be solved by better understanding alone. They can be solved only by carefully considered changes.

The discussion paper is a good start, but also by the application of practical or applied environmental ergonomics, by incorporating analyses, design, as well as testing and evaluating living arrangement systems. A restructuring process is required. This restructuring process should include creating new social and physical living environments, new directions in the Landlord and

Tenant Act, make full use of municipal bylaws, organizational restructuring as in legally enforcing the act by changing statutes from the Landlord and Tenant Act to the Criminal Code. For example, on page 6 of the discussion paper "unauthorized tenants," in my view, would become trespassers.

(2) Counselling and training may improve communications and may even help people develop new skills, and that's what we need. For example, tenants need to learn appropriate behaviour in landlord and tenant living arrangements, especially in areas of life safety systems.

Landlords need to learn to renovate their buildings for the best use by the client and tenants in ways that encourage improved behaviour. That's what's needed. We don't need to throw a lot of money at things. Groups of tenants who need the encouragement are people who live in rooming- and lodging-houses, because rooming- and lodging-houses are used in place of care homes and short-stay facilities.

(3) Human relations is not an end in itself. For the past 20 years the objective of the independent landlord and organized landlords was not to make people happy, though some have argued otherwise, but to achieve its overall goal of providing housing with problem-free profitability.

The rooming-house landlord of today cannot ignore the tenants' problems by concentrating exclusively on gaining profit and by increasing the rent, and this is what we're talking about here. Real gains and long-term profit are dependent upon getting cooperation out of tenants and other people, both inside and outside the formal boundaries of rooming houses.

In contrast, the rooming-house tenant of today cannot assume that by freezing and halting rent increases or even reintroducing subsidized housing will provide them with long-term quality housing. No, it won't. These concepts have not proven successful in the past. Destructive tenant behaviour has caused the subsidized housing effort to be reduced to substandard housing.

My recommendation, my suggestion, in addition to the restructuring process before mentioned and the New Directions for tenant protection legislation in Ontario is to, first of all, improve tenants' and landlords' understanding relative to tenant satisfaction and landlord profitability.

I am hopeful that in the future we will see increasing, not decreasing, attention paid to the concept of rooming- and lodging-houses. This concept, which I have described, has been tried in my own pilot project for the past eight years, and for close to 80 Villa Street satisfied rooming-house tenants, this concept proved itself workable within the framework of the desired balance.

I'm happy to have had the opportunity to make this presentation.

**Mr Marchese:** Mr Schoor, what you practise in your own place is this concept of incorporating analysis design as well as testing and evaluating living arrangements, so basically you learn from the interrelationship between yourself and the tenants?

**Mr Schoor:** Yes. It's a process of experiential learning.

**Mr Marchese:** So you've learned a great deal as a result of that?



**Mr Schoor:** I've lived there for eight years. I have lived with the people who needed the help and I've been there.

**Mr Marchese:** So this counselling and training that you're talking about as a way of improving communications is something that you're urging landlords and tenants to do and having the government say to landlords and tenants, "Create ways of communicating with each other"?

**Mr Schoor:** Yes, it creates a bond. Doing things together creates a bond.

**Mr Marchese:** And it doesn't have to cost money is what you're saying.

**Mr Schoor:** Not that much, no.

**Mr Marchese:** It just takes the government to simply instruct landlords and tenants somehow to create a better communication system between each other. You don't see that as a conflict. You don't see the interest of the owner and the interest of tenants sometimes being in conflict?

**Mr Schoor:** No, it's not necessary.

**Mr Maves:** Thank you, Mr Schoor, for your presentation. I'm just going to follow along Mr Marchese's line. How would a government facilitate that kind of communication? I agree with you that better lines and more open lines of communication between landlords and tenants would solve a myriad of problems that we have with the system right now. How could a government encourage that to happen?

**Mr Schoor:** Some systems here you're already putting in place; for example, workfare. Many of the people who live in rooming- and lodging-houses are in some type of a program. They are either on FBA, family benefits, or they're on welfare or whatever and, as a result, they're not as employable as you think they are. Some can't read, with some their dexterity is off.

But to make a long story short, for example, if one was to employ workfare in dilapidated buildings and people live there, well, let's work together and make this place a better place than it is and learn the concept of, "If you can't make it better, leave it alone." The things that people will learn by using those applications is, even if they don't learn to be a carpenter or a painter or an electrician or a scientist or a politician, people learn what they like and what they don't like. Now that is quite an achievement for some of those people.

**Mr Maves:** You're saying that just encouraging that participation and that interaction alone will —

**Mr Schoor:** Will help them make up their mind that yes, they do have a place in our society and there are people who do care for them. Not all landlords are as bad as I have heard.

**Mr Sergio:** Mr Schoor, a couple of the objectives that are proposed within the legislation here — if they will work, at least they are being proposed — one of them is to provide for a faster, more accessible system to resolve disputes between landlords and tenants. In order to do that, I suppose, and disputes are between small landlords and big landlords, it would have to be a mechanism that would be free from political interference or political patronage. How would you see a system like that?

**Mr Schoor:** The first thing is, what I have done is that I'll teach the tenants what is expected of them. They have

rights and obligations. Personally as a citizen I really struggle with the thought of having to evict a tenant because the tenant who is not good enough to live in my building, I will have to dump this individual into your lap or Ms Lyn McLeod's or anyone else's. I really struggle with that thought.

What I have done in the past is that I have arranged for meetings with the judge, and the judge has laid down the law to them literally and said: "Now you're on notice. These are your requirements." So education. If we just move these people from one place to another to another, the only thing that has happened is that I have resolved my problems, but the other person who will be replacing the empty space will have been evicted somewhere else. What have we gained? We haven't gained a thing.

**Mr Sergio:** Have you been successful?

**Mr Schoor:** Yes.

**The Chair:** Thank you, Mr Schoor. We do appreciate your input this afternoon.

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#### DRYDEN AREA MOBILE PARK ASSOCIATION

**The Chair:** The subcommittee has agreed to accommodate a couple of late requests for presentations this afternoon because we didn't have a full schedule here in Thunder Bay. We have Lauretta Wesley and Nola Hill from the Dryden Area Mobile Park Association. Welcome.

**Ms Lauretta Wesley:** I'm pretty nervous about this. I was asked to find enough volunteers to put a new roof on the church and I thought that was a big job, but this looks bigger.

We represent the newly organized Dryden Area Mobile Park Association. We've been in business five days. I am Lauretta Wesley. I'm a tractor operator and a licensed pesticide technician by trade, and my husband owns a trailer park. We have 24 units in ours. I noticed that there is protection for the tenants. One of the things we would like is fair and equitable treatment for both.

The other thing is, we would like to separate the mobile parks from the apartment buildings. A 2.8% increase on \$1,200 for an apartment is \$33.60 a month. A 2.8% on \$135 is \$3.70 a month. We're getting further apart. The rich get richer and the poor get poorer. Also, we have in our area a mobile park at \$135 a month and one at \$229 a month. We would like somebody to look into fair prices.

We're sort of a unique situation where most of the mobiles in our area are in rural areas, which means we don't have municipal water and sewers. We have drilled wells, storage tanks, our own chlorination system and do our own water testing, which we send to the Ministry of Environment and Energy in Thunder Bay — or did — our own septic system, snowplowing, road maintenance and garbage pickup. The government closed the rural dumps and we had to hire garbage pickup at \$1,200 a year. Then the MOEE office that did the water testing in Thunder Bay closed, and the first price I received was \$10,000 a year to test water out of province. This is an increase of \$11,200.



We applied to the rent review board. I have the letter here, and the things that you can raise the rent for are heat, hydro, water and taxes. Unfortunately, the rent review board does not consider testing water as anything to do with water. It says, "It does not appear that your operating costs increases qualify for the above guideline application."

We are making approximately \$42,000 a year. We are in a loss situation and the government would like to add another \$11,200 to our cost. The owners of all the parks in our area are working on other jobs.

On pages 4 and 7 you have fines for the landlords only. Why are there no fines for repeatedly not paying the rent, building unapproved structures, damaging mobile homes that they rent? I would like to see 1% per day for every day they don't pay their rent.

There is no real way to evict a problem tenant. The courts don't enforce eviction notices. The landlord can't afford the legal fee, the sheriff to come 90 miles, putting wheels back on a mobile home, having a moving company move the mobile home off your property. Storing it, you pay rent by the day. It's not allowed to be stored on your place. Then if it's sold, you have to split the money with everybody who has a lien against these tenants, but you've paid the cost.

We are not allowed to expand. We have no government subsidy. We can't compete with government-sponsored low rentals.

An example would be one tenant who rented for years at \$300 a month and then gave his notice because he could rent from a government-subsidized home for \$100. We are forced by the government to take on the costs of the government closing their facilities, but we are not allowed to pass these on to the tenants.

Red carpet: I would like to say that I hope at 61 you're not out climbing 95-foot hydro poles to subsidize your business. The "red carpet" remark waved red flags.

One park has gone bankrupt in our area and the other owners are all working out to support the mobile parks. I don't think you have to build high-priced apartments with government money. Let the people invest their money in cooperative apartment buildings. Make it possible for smaller landlords to build lower rental units. Subsidize the tenant, subsidize the needy, not the greedy who own another building and are renting in something else.

All parks in our area were built by the owners. We were trying to build a business that would support us, not one that we had to work outside to support it. Maybe you could loan us the money a little cheaper; we could hire workers and create more jobs. I want protection for the tenant too. I don't want to see any tenant overcharged or abused or harassed, but then neither do I want to be harassed.

If you're looking for fair housing, mobile parks are the best way to go. Allow the development of new lots, give us fair rent, create more jobs, and subsidize the people who need it.

I suggest that you start up a committee — I don't know if you would need it in the south — dealing with fair rent for mobile parks, the expansion of mobile parks. We haven't had vacancies in 25 years. There are people

who phone us and have a mobile and want a lot. We don't have them.

Also, the committee could deal with intimidation of mobile park owners. Some of you people have policy-setters at the top of your government who don't happen to know what the guys at the bottom are doing or how they're threatening other people.

Why are we being deprived, at the benefit of apartment building owners? Maybe deal with the landlord-tenant problems; maybe this committee could deal with it. You could look at repairs the landlord needs to do, but also keep an eye on what goes on in the tenants' — some of them aren't keeping up either. We would appreciate helping you any way we can with any knowledge that we have. We don't know much about statistics, but we certainly know about cold, hard facts.

I've forgotten something — it's a sign of age. Oh, yes, the man who was talking about talking to your tenants. I have nothing against the landlord and the tenant group getting together. I have never turned down anybody in our park who needed to be listened to. I'm a very good listener. The people in our park have definitely come to our aid many times. Over half of them came out and helped us at 40 below zero with the water line that broke. I just think people need to be listened to. Our little trailer park is like a little community and they're concerned for each other. If an ambulance comes, there'll be people there to help load them on. It's very nice. Your turn.

**Mrs Nola Hill:** I just have a few points. I don't want to go through all of this; you've been listening all day. I just have some points on things that were already brought up. I don't understand why you don't set up an arbitrator, an inspector, to go into, let's say, an empty apartment. You know that you have all these welfare people waiting, or low-income people or someone who needs a home real quickly. Go into these apartment blocks with this inspector and have the inspector say, "Okay, the rent should be, looking at the place, \$500 a month." If this person who needs it can't afford it, then the government can subsidize it. That's a win-win situation. The apartment that's sitting empty gets rented, and then the person who needs the place can also afford it.

I've got lots of land in the rural areas but I am unable to subdivide and expand my park. I would even put up low-rental housing if I was subsidized, but what happens is the big developers hear about the new laws that come up and stuff like that, so they're the first ones to get these grants. By the time I hear about it, it's already shut down or it's already full, something like this meeting. I've only been in business for two years and it was due to health problems, as well as the other couple — my mother was quite sick.

1610

I'm learning right from the bottom. I have no idea what I'm doing. I'm just trying to do the best that I can. You need government subsidy to help you out and there is none. I've been looking for two years. I might be looking in all the wrong spots but I don't know who to call. It would really be nice if something was set up where a new businessperson knew where to go and what was out there for them. In that way, the public always will get helped and so will the business owner.



I don't want a lot of money but I do want to ~~make~~ my payments on my place; otherwise I'll lose it ~~as~~ well. There have to be some answers. I think helping ~~the~~ little guy will help the big guys too because we'll ~~still~~ have to hire these developers to build these places, so ~~they~~'ll get income from us.

You'll create all kinds of jobs by letting us ~~develop~~ in the rural areas. A mobile home park puts a lot of families into a small area, so you don't have any ~~increased~~ maintenance costs to any of the taxpayers because ~~they~~'re all in a small area, sort of like an apartment ~~block~~, only it's on a plot of land. I don't know, I think it ~~would~~ be very beneficial, but unfortunately we're in ~~unorganized~~ territory. The government has told us on many ~~occasions~~ they don't want us to expand there. Thank you for listening.

**The Chair:** We've got about two and a half minutes per caucus for questions, beginning with the government.

**Mr Smith:** Thank you for your presentation this afternoon. I think you've raised some points, ~~because~~ the type of business you're in I personally don't ~~believe~~ is very well understood, to start with. So ~~some~~ of the questions you have are very appropriate. I'm certainly pleased as well to see that the report the ~~parliamentary~~ assistant filed with this committee indicates that the Ontario manufactured housing association, ~~which~~ represents some of your interests, was consulted as ~~part~~ of the original stakeholder review.

Some of the issues that you've raised are ~~very~~ important to me as well, because I have a home-owned/leased-lot community in my riding and the challenge I have is the same that you have in terms of trying to address the landlord's concerns, but at the same time the ~~tenants~~ or residents in that community are seniors and ~~primarily~~ on fixed incomes. That's why I was interested to ~~hear~~ from the Dukes in terms of what the appropriate capping mechanism might be or how we might address costs which are identified in this paper that are imposed on you by a public agency, such as the water testing you've raised, how those might be addressed through an expenditure mechanism or pass-through. Do you have any thoughts in general about that? The paper ~~speaks~~ to the very issue you've raised and we're hoping to find some conclusion there.

**Mrs Wesley:** I wonder why you decided to close the lab in Thunder Bay when it's the only one around here, and I wonder too, why mobile parks are the ones that have to test their water. Why not tourist camps, restaurants out of town, motels? The other thing that concerns me a little bit is, more than six mobiles, you ~~have~~ to test the water. If you don't have six, you don't have to test the water. Does that mean that if you don't have six, those people aren't important? It just amazes me that you can say: "You have to do this, but we can close our lab and you have to go out and pay privately for it. Plus, you can't send this down to the renters. They're not going to share the cost with you."

**Mrs Hill:** By the government closing that lab in Thunder Bay, not so much my trailer park, because I only have about nine trailers in it, but most of the bigger parks lost a value of close to \$100,000 per park off the value of their property. Before you closed that lab, that park

was worth \$200,000 and now it's only worth \$100,000. This was their retirement.

**Mrs McLeod:** I'll pick up on that because I think you've made, as the Dukes have, a strong case for the need for special attention for trailer court rental situations, as well as the frustrations of small business people. I guess, for me, you add another frustration that doesn't often come out and that's the frustration of people in northwestern Ontario, where our reality is so different. I'm not sure how many people would know what the point is that you're making, that one hand doesn't seem to know what the other hand is doing.

So when Mr Smith says, "What can we do about the water testing cost?" it wasn't a problem to you until government shut down the lab. It was formerly done by the Ministry of Environment at no cost to you because it was seen to be something government does for the health of its citizens, not something which was a cost to be borne by the landlord, in this case. Now the Dukes are paying \$30 to have their water sample tested because there is no private sector lab to do it here. There's no cost-efficient way to do it and there's a user fee attached to it for you. How often, for example, would you have to be sending that water sample out?

**Mrs Hill:** The ministry told us that we were the same all across the board. However, when we formed this association, we found out that wasn't the case. I've been doing two water bottles per week and then at the end of the month I was to do four. The lab contacted me and advised me that I would be paying \$60 per bottle now, that I normally only paid \$5.90 to have shipped away. That's a big difference.

**Mrs McLeod:** I haven't seen your income figures; the Dukes set out theirs. But when you look at the income figure they're getting on a weekly basis and you take that off the top of it —

**Mrs Hill:** I'm in a \$10,000 overdraft right now.

**Mrs McLeod:** So when government says, "What can we do to help?" there's an obvious one.

**Mrs Hill:** So I don't have the time — yes.

**Mr Marchese:** Let me understand. The water testing has caused serious costs and it's \$60 per bottle. How many bottles?

**Mrs Hill:** Two per week and then on the last week of the month I'm supposed to do four.

**Mr Marchese:** So you've got to do two a week?

**Mrs Hill:** Yes, one from my kitchen in my restaurant and one from my public bathrooms.

**Mrs Wesley:** But every trailer park doesn't do the same amount of testing, even though the Ministry of Environment told us we were all treated the same. Somebody with 16 mobiles is testing every week, four bottles at a time. Somebody with 65 is testing twice a week with two bottles. The town of Dryden, with 7,000, is testing four bottles four times a month. There's no consistency in anything they tell us.

**Mr Marchese:** Were the ministry officials aware of the kinds of costs that would be involved once this lab was no longer here? Were you aware of that?

**Mrs McLeod:** It was certainly raised, Mr Marchese.

**Mrs Hill:** Not until the lab contacted us, the lab that closed down, and they gave us a report on the different



private labs we could contact. Once we started contacting these labs, they started telling us the rates and we went, "Oh my God, we've got to do something."

**Mr Marchese:** I would definitely support something that speaks to a group of people, a consultative group that you mentioned — the others mentioned that as well — that would deal specifically with issues of mobile home parks, and I hope the government members will take that into account.

**The Chair:** Thank you very much, ladies. We appreciate your input this afternoon, and your concerns.

1620

#### PINE TREE ESTATES MOBILE PARK

**The Chair:** Our last presenter is from the Pine Tree Estates Mobile Park, Danny Mosa. Good afternoon, sir. Welcome. Any time you allow for questions would begin with the Liberals. The floor is yours.

**Mr Danny Mosa:** Thank you, Mr Chairman, for the opportunity to speak to this committee. Unfortunately, I wasn't aware that you had to present a presentation beforehand, but basically what I want to do is just concur with what the Dukes had to say about their trailer park, and the last presenters.

My concern, basically — I would refer to Mr Stewart — is accountability on the tenant and the landlord. Being a trailer park owner, I don't think the Landlord and Tenant Act should apply to a trailer park as such because in the majority of trailer parks we don't own the trailers; all we're doing is renting out the land.

My concern is that I have drawn up leases. I've also had rules of the park that were handed down to me from the previous owner of the park. When I try to enforce these rules and the lease conditions, I am told by the Ministry of Housing locally that they're not worth the paper they're written on because the Landlord and Tenant Act supersedes whatever's in there, because there are only certain conditions such that you can evict a tenant from the property. Being a park owner, I feel that it's my land. When I attempt to get some help in regard to bylaw enforcement and what not, I've been told by the municipality: "You're out of luck because that's private property. We can't come on to your property." "I'll give you the permission to come on to my property and enforce these acts." "No, we can't do that."

What I would like this committee to consider with regard to trailer parks — I can agree with rent review. You need some sort of legislation in regard to costs for both parties. But I still think the tenants have more control over the parks than the owners do if I turn around and tell my tenant-owners that they have to fix their trailers up, that they can't use the park for a used car wrecking yard etc. If they abuse some of the uses of the park, I'll say: "Fine. You're inconveniencing the other tenants. I'm going to have to evict you." I go through the process of trying to draw up the papers and find out that I come to a dead end street saying, "These aren't some of the conditions such that you can evict a person."

All I'm doing is renting out a space. I'd love to be in the position of the Ontario government, at the Ministry of Natural Resources, and tell somebody, "We're going to

increase your rent this year by \$7 and at the end of October you have to be out of the park." If I have a tenant who doesn't abide by my rules and regulations, which they agreed to when they first came in, then I should have the right to say: "Fine, you can go. You have to go because you're disturbing the tranquility of the park." We don't have this right.

There was talk here today about rent increases when a tenant moves out of an apartment, that if a new tenant comes in the landlord is promptly going to have that opportunity to raise rent. What I find out in my trailer park is that I don't have any control. If Mr Marchese owns a trailer and he decides to sell it to Mrs McLeod, I have no control over that sale. If he decides to rent it to her, he can increase the rent to whatever he wants, yet I'm controlled by rent control. He's making three times more on that trailer than I'm making renting him the lot. He's making a business out of using my property. I have a tenant on my trailer court who owns three trailers. He pays me rent for that lot and yet he's collecting three times as much rent by renting out that trailer to a third party. I never see the guy; all I get is this cheque for the monthly rent. I have no control over my property whatsoever.

I think with the Landlord and Tenant Act being in place as it is now, it should not relate to the trailer parks. We're not landlords in regard to apartments and what not. All we're doing is renting them a piece of land to put their trailer on. I agree with that. Let them put their trailer on there, but I don't see how they can take advantage of us and we have no control over what they do with their property once they put it on our land. As long as they pay the rent, I can't evict them.

All I can do is more or less concur with whatever the other presenters said in regard to trailer parks. My concern is that the Landlord and Tenant Act, the way it's legislated now, should not apply to trailer parks if the landlord of the trailer park doesn't own any of the units. If he does own the units, fine, let the rent review or Landlord and Tenant Act apply to him as a regular landlord. As it stands now, we have different costs than apartment building people and yet we can't do anything to upgrade our trailer parks.

I'll give you a good example: People say to me, "Why don't you upgrade your trailer park?" I'll say: "Why don't you fix your trailer up? It's a shambles. If I pave this road in this trailer park and I put in night lighting and I put in security, you would put your trailer up for sale. If it was only worth \$5,000, you would turn around and sell it for \$15,000 because you'll say to that prospective buyer, 'Look at what I'm giving you.'" That prospective buyer knows there's no other place in the community to go and build a trailer park or put a trailer in because of the municipal bylaws.

What trailer parks you have in the community now are what there are, and the municipalities won't allow any expansion. These people who live in your trailer parks won't fix their trailers up and yet they expect you to do all the maintenance work. If they sell their trailer, they're just enhancing their pocketbook and the landlord gets nothing out of it. There's no advantage at all.

**Mr Sergio:** Mr Mosa, I think there is a shared view here, especially with respect to trailer parks and that there



are problems associated with the rules governing trailer parks or mobile homes. We have heard this in Toronto from a couple of presenters.

One of the examples you have given I think has got to do with subletting.

**Mr Mosa:** Yes. I have one tenant who owns two trailers in my park. He sublets them to a third party and he's making more money than I am.

**Mr Sergio:** You're saying there is nothing in the laws that protects you from somebody having two, three trailers, and he can make money and you can't.

**Mr Mosa:** That's right. Apparently, I can't even have a new tenant coming in sign a lease because they're not obligated by law to sign the lease. They just take over the existing papers, whatever they did when they came into the trailer park. Some tenants will sign a lease, but they don't abide by anything in the lease.

**Mr Sergio:** I believe that's my recollection as well. Also, mobile homes are taxed at the same level as residential or commercial?

**Mr Mosa:** We're taxed commercial.

**Mr Sergio:** Which is a higher rate than the residential.

**Mr Mosa:** Yes.

**Mr Sergio:** Which of course adds to the cost of your operation.

**Mr Mosa:** Yes.

**Mr Sergio:** As I said before, I think it's a consensus that something must be done to improve and give assistance to the operation of the people who run small businesses such as yours and others. That is one way of assisting you people. But the government must also listen to you people. You are, if you will, a special-interest group because the government has been attaching this connotation to various groups. So if we may say for this particular instance, in your particular special group, I think the government must look seriously in a different way than it looks to condominium and large high-rise buildings and something like that.

**Mr Mosa:** I was hoping they would look at it as more of a condominium aspect.

**Mr Sergio:** Perhaps that is one way, but also the government must not put you and the other lady and the other lady out of business. We cannot have continuous double-talk, especially from our own government. We have to assist small businesses. We have to create jobs. Then they come and close a lab up here, which is costing one particular park \$100,000 a year. I am sure \$100,000 a year must be costing a few jobs in that particular park.

I think you've got to work both ways. It is good that we hear from you people with this particular concern. It is a serious concern and I'm sure that the members of the government side have an open mind and will be taking this to the minister himself. We hope something good will come of it.

1630

**Mr Marchese:** Mr Mosa, how did you become aware of these meetings?

**Mr Mosa:** I read it in the paper on Thursday of last week and I found out this weekend that it was at 9 o'clock this morning. That was the first of my hearing of it.

**Mr Marchese:** It was interesting as well, because the two previous speakers said that by the time they hear about something it's usually too late. That's always a problem in terms of how we consult. It's not just this government; all of us, all governments, at times have a problem. We put information in newspapers and sometimes we simply assume that people will read them, and that's not always the case. Different people read different things. That should always be a concern to us in terms of how we reach those communities that sometimes are the last to hear about it, and you're one of them.

Is the testing of water as serious a problem for you as it is for the other two?

**Mr Mosa:** Yes. That was brought up by my wife the other day. We were told when the lab was closing in Thunder Bay that there would be a cost involved. I said, "Well, that's part of doing business." But we didn't realize how costly it was going to be. When I contacted the local people here who are testing our water now, I asked them how much it would be. This is on a weekly basis and it's four bottles a week. They said it would be \$12. I said, "Well, \$12 isn't bad." Then I found out it was \$12 per bottle, so I'm looking at \$48 a week for testing the water.

**Mr Marchese:** Yes, that can be costly. Did you get a chance to read the document the government has produced?

**Mr Mosa:** No, I haven't seen it at all.

**Mr Marchese:** So you haven't seen the page or so that speaks to this. My only suggestion is that a group be set up to look at mobile home parks. Perhaps other people have more knowledge than I do, coming from the city. I'm not sure; maybe the others do. I don't know. But from what I've heard from the three of you, it seems to me that there's a little more that we need to know about this than we can gather from a page or two of information. I don't think it's bad for the government to set up some group that would review this quite separate from everything else just to see how things affect you in a general way, specifically but also generally, and see how we can relieve the load so that some of you can survive as small business people up here. Anyway, thank you for coming. I wish you the best.

**Mr Hardeman:** Thank you for making your presentation. I think it's quite obvious, particularly from the last two or three presenters, that there is a great difference between the mobile home parks and the other types of housing, high-rise housing in particular. One of the concerns — and we talked about the level playing field — that has been expressed on behalf of people who live in the mobile home parks is that there are no criteria that limit the ability of the mobile home park owner to deal with the rent increases. The people who own the trailer are far more tied to that spot; they're not like other tenants who could go into the free marketplace and quickly look for another place to live. They would have the expense of moving their mobile home, so they become a captive customer. Do you have any direction that we could use that would help deal with that, to give that level playing field, to provide you with the direction?

**Mr Mosa:** I don't want to evict anybody. All I'm asking for is: "If you're going to live in my park, these



are the rules. Abide by these rules and there's no problem." Like I said, there are only a few people. But some trailers in that park of mine, I'm ashamed to take some of my friends and say, "Hey, I own that place." These people don't fix their trailers up.

**Mr Hardeman:** Going further, you said that you believed the trailer park owner should not be covered by this legislation. Do you believe that the owners of the trailers should be held independently responsible?

**Mr Mosa:** I think they should be. If they rent their trailer out, they automatically fall under this legislation.

**Mr Hardeman:** The other issue I'd just quickly like to touch on is the issue of the testing, recognizing the cost that's implied with that. At least from what I've heard so far, there seems to be an indication that all this has just come to light now.

**Mr Mosa:** I think it was July 1 we had to start taking our water.

**Mr Hardeman:** But I think it's fair to suggest that the requirement for the testing came some time back. We talked about the different criteria for different camps, and villages have to have different testing done compared to larger centres and so forth. Those criteria did not come into existence just recently.

**Mr Mosa:** I'm not aware of that, because I've only had the park for six years. All I know is what I was told I had to do, and that's what I've been following.

**Mr Hardeman:** Recognizing it's a major cost, a lot of our small municipalities in rural Ontario are facing the same challenge that you're facing with the lab closing.

They are being asked to go to the private labs. For small units, it's a major cost to do this testing to make sure that good water stays good.

**Mr Mosa:** I believe if there's something with the water, then something should be done. But to have it tested every week, I think that's ludicrous, really. Sure, all of a sudden the water could turn bad — okay, fine, let's test it, let's find out what the cause of it is and let's get it corrected — but to test it every week at these costs —

**The Chair:** Thank you, Mr Mosa. We appreciate your input here today.

I guess Mr Hardeman has agreed to meet for a few minutes with you mobile home folks to maybe answer any other questions. He is the parliamentary assistant to the Minister of Housing, Mr Leach.

**Mr Hardeman:** Mr Chairman, could I just have a moment for a point of clarification? I think this afternoon during one of the questions Mrs McLeod referred to the fact that the rent registry had been eliminated for the Thunder Bay area last Friday. I want to make it clear for those who were listening that the registry was not eliminated for Thunder Bay last Friday; that was a different issue. The rent registry for the province of Ontario is still in existence, including for the people of Thunder Bay.

**The Chair:** We are now adjourned until 11 o'clock tomorrow morning.

*The committee adjourned at 1637.*











## STANDING COMMITTEE ON GENERAL GOVERNMENT

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Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 27 August 1996

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Mardi 27 août 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Tuesday 27 August 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mardi 27 août 1996

*The committee met at 1100 in the Water Tower Inn, Sault Ste Marie.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to the standing committee on general government hearings on the proposed changes to the rent control legislation. We are happy to be in Sault Ste Marie on this wonderful, cool summer morning. Hopefully we're going to get some good input from the folks in Sault Ste Marie.

## LORNE CARTER

**The Chair:** Our first presenter is Lorne Carter. You have 20 minutes of our time to use as you see fit. Should you allow any time for questions, Mr Marchese would get to lead off the questioning this morning and then we'd rotate equal time. The floor is yours, sir.

**Mr Lorne Carter:** As a quick introduction to who I am, I'm a northerner. I've lived across this vast piece up here above Barrie for quite a few years. I've listed in there some of the places I've lived, and I understand you may have been in some of them in the past or planning for the future. I'm also a parent and very concerned about where our future generation is going and where the economy of Ontario is and should be.

The process of consultation within the communities across Ontario is a system of considerable value to my government. It provides input from the grass roots, a process which had not been allowed in past governments. While special-interest groups were always heard and should continue to be heard, it is refreshing to see that the silent majority has the opportunity to address issues which will touch everyone in this province for decades to come.

Excuse me, age requires that I put another set of glasses on. Ah, that's much larger.

We are presenters, a focus group gathered together in different communities across this province in search of the right and wrong way to make the system a better place to live and grow.

Recently, I overheard a question posed that we as Ontarians should compel our government to fix the system, rent controls included, for all time, to last for decades and decades to come; a solution forever, so to speak. I reflected on the comment and realized that someone was speaking as our society. We have grown too complacent, comfortable, apathetic and generally adverse to any changes in the way we do things. The situation posed, of course, was an impossible one. We

live in a democracy and changes will always be taking place.

The standing committee is here today to listen and note the changes we as Ontarians feel will fix the system for this time. I, as part of Ontario, welcome the opportunity to address this standing committee.

Effectively implementing efficiencies in our systems and our government is the current focus of government and should be for each and every Ontarian. Things are broken, in a mature state, or not in tune with the times. We as Ontarians have to break out of our paradigms. We need to get constructive, be our best critic and do away with the attitude, "We need changes, but not in my backyard." The landlord and tenant control system is no different and in a changing economy is one of the first places for change.

The web of society has become so interwoven that we cannot change one aspect without upsetting the balance of others. It is not an easy task to downsize, re-engineer, right-size, or make efficient, and I thank our government for thinking in that direction.

The change merchants will tell us that making changes requires the input and buy-in of those affected or it won't work. Private and public sectors of the economy are feeling the effects of this each and every day. It is our job to provide input in order that a policy framework conducive and workable overall can be struck. In short, we're only as good as the people we put in place or empower to proceed.

The key issues this standing committee is looking at this particular day involve protection for tenants; improving property maintenance; toughening the penalties for landlords who do not comply with regulations; creating jobs under new construction, renovation and stepped-up maintenance work; streamlining the system to deal with disputes between a landlord and tenant; and demonstrating effective administration from here on.

The theme of this presentation will focus briefly on the need for streamlining the system for dispute resolution and creating cost-effective administration, then correlating the benefits of creating an environment for job creation to meet the increasing demands for the future. The balance of the issues are dealt with in my general statements. Their importance is certainly not less, but due to the time constraints and the limited research, I have restricted this presentation.

Streamlining the system is not only essential but paramount to decreasing confusion for the tenant consumer and the landlord supplier. Currently dispute resolution takes weeks, months and even years, not to mention considerable moneys and non-productive time to reach a solution.



Currently six acts related to tenancy can govern any given situation. No wonder our society is overrun with the need for lawyers. One piece of legislation could overrule another and another, leaving the possibility of redundancy on any issue. No wonder tenants skip out in the wee hours of the morning and the landlords call in legal assistance at the slightest note of a problem. They're confused.

A system that breeds mistrust and confusion is currently at work. Things are broken, and a movement to correcting the situation is not a casual request, it's demanded.

In a closing note on this subject, it is only good sense that the administration and tenant protection act be struck with expediencies and a cost-effective format. This would certainly be in keeping with the government movement to spread efficiency plans throughout all ministries and departments.

Secondly, the economic climate situation in Ontario currently calls for an aggressive approach to rental housing throughout the province. The housing units are aging, the population is aging, new housing starts are down and economically the borrowing charges are in favour of the developer. The underlying advantage is the economic boost aggressive legislation will create.

Statistics tell us that the majority of rental housing units are in need of repair and replacement. Legislation which provides incentives to renovate and replenish to meet demands will have a positive effect on the construction job market and tenant demands for decent, comfortable, updated accommodations. Legislation which encourages building can only be met with a positive response from the consumer.

We have commenced a major growth period of aging populations throughout Ontario and North America. This period will last well into the next century and is not expected to peak until the year 2030. This has a significant effect on housing needs for aging people and the elderly. A need for care housing will spawn a building surge equal to the boom years of the 1970s. This in turn will allow for the transition from owned housing, thus freeing up the housing necessary for younger generation family needs. The empty nesters are another subject. They are in search of an easier lifestyle that rental accommodation custom designed for their needs can provide. These demands are genuine and are expected to last for some time to come.

New housing starts and increased demands for same are not expected to rise in the next 10 to 15 years. This is based on population statistics. Thus we have to make a conscious effort to provide resale homes for the growing family scenario.

The key piece of the puzzle for these opportunities for advancement is the low cost of borrowing available to developers today. Interest rates on the low end of the scale are a welcome sight. The climate is right for building.

Generally speaking, the stage is set to renew our rental housing in a market-driven economy, and I encourage the government to move decisively and progressively to meet the needs of our society. Note that in a market-driven economy, the consumer influences the pricing. We have

favourable facts and now we need the process. There are some words of caution, however. It is okay to speak and enact changes in our systems of government and the way in which we govern, but we have to introduce ways for a smooth transition, and phasing in the consumers and providers for these changes is and should be the chosen path to meeting our goals. I urge the government to maintain the consultation process.

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In conclusion, thank you very much for the opportunity to express my views and lend support to my government. I believe a great many Ontarians hold a parallel view on these issues. Ontario was, and still is, a great place to live in. Let's continue to renew our focus, revisit our economic roots and think constructively towards the future. Let's prepare the scene for our youth and experience it with them. Thank you again.

**The Chair:** Thank you, Mr Carter. We have about three minutes per caucus left for questions, beginning with Mr Marchese.

**Mr Rosario Marchese (Fort York):** Mr Carter, you say at the beginning of your statement, "It provides input from the grass roots, a process which has not been the case in past governments." Could you explain what that means?

**Mr Carter:** This is the first instance I've seen of the number of hearings that governments have presented across this particular province.

**Mr Marchese:** Do you mean having two committees in one day appearing in the same city?

**Mr Carter:** No. The overall process in the last six months, the next six months.

**Mr Marchese:** We have had in our government and previous governments committees going across the province on almost every imaginable issue where there has been a legislative change. Nothing is being done today that is different from what we were doing in terms of process. We consult today on this issue, as we consulted in the past on issues that were before the Legislature. I don't see what the difference is in terms of what you are suggesting here, that somehow we did things differently in the past.

**Mr Carter:** I thank you for that information.

**Mr Marchese:** There are many things here that you raise but I want to get to the subject of streamlining the system/cost-effective administration. We've heard many deputations where they've said the present system is not working too badly at all, but if you want to change the system, then make some changes so as to make it more effective, if that's the issue. Many are worried that if you change the system, then that system to set in place will take time, it'll be a different set of administration and bureaucracy to deal with. It may become even costlier, because the system that we have in place now is working. They also add that if you create a new tribunal kind of process, you're probably going to hire people who may or may not be neutral, but people are concerned that those who adjudicate need to be neutral, and the present system allows for that. But we're not sure about a future system where politicians make the appointment process. Do you have a comment on that?



**Mr Carter:** Reduction from six pieces of legislation or acts to one or two processes certainly sounds like an efficient process to me.

**Mr Marchese:** No, I understand that. But I made two or three statements that sort of would lead you to comment on different parts of what I said. First, do you believe in a tribunal system where appointments are made by the politician, by the government?

**Mr Carter:** I don't think I have the information available to me to make a comment on it. I would have to know how the tribunal system actually would work and I don't think we're at that point yet.

**Mr Marchese:** There's a big concern that we're setting up a whole different bureaucracy here that will slow down the process of adjudication. Superficially it seems easy to say, "Well, we're going to all lump it in together and we're going to do it and everything will be in to one process," and it sounds efficient. But we have to work out what all that means and there are implications for that.

**Mr Carter:** I understand this is a paper that you're putting together in order to draft some legislation so I'm certain that it's in the early stages of discussion.

**Mr Bruce Smith (Middlesex):** Thanks for your presentation this morning. I know there are a number of issues that you highlighted. One of particular interest is your comment with respect to creating investment and job opportunities. I think one of the most significant pieces of data that the committee received was last week in Toronto from the Ontario Home Builders' Association where they indicated to the committee that approximately 5,000 jobs were lost in this province due to the existing legislation, as it is today. With some minor changes, they anticipate we could recapture about 30% to 40% of those jobs. But I think the most tragic part of it was that in fact we've perhaps lost some of the talents in tradespeople, the pool of tradespeople in this province, that we may not recapture.

In your presentation you said — and I believe this is what you said, correct me if I'm wrong — that the stage is set for building. I'm just wondering what, in Sault Ste Marie and region, would draw you to that conclusion because there's been a great deal of criticism that perhaps the stage isn't set for building, especially as it applies to rental accommodation.

**Mr Carter:** My comment is based on market scenarios and I pointed those particular things out. In terms of rental housing, I was reading some statistics on the fact that it's extremely old and needs a revamping or replenishing. There's new demand by the marketplace. As far as borrowing dollars for development and that sort of thing is concerned, things are very low on the interest scale side of things. We have to start to think about rebuilding the structures within our province. We've fallen a bit into decay. We had the whole argument in the press about our highways across this province. We have a lot of building scenarios almost in the same situation. It's perhaps a case of past governments not paying attention to those sorts of things.

**Mr Alvin Curling (Scarborough North):** Thank you very much, Mr Carter, for your presentation. It invites many comments, but because of the short time let me

make a comment and ask you if you can see this in some of your research. When we make policies as a government, we cannot make them in isolation. What I mean by that is that we're talking about housing, so if we're having a housing strategy, which this is not really, you have to take into consideration areas like Health and Community and Social Services. It has been pointed out to us right through our hearings that on some of the things we will do in regard to home care by trying to change one aspect of it we found the government has not consulted with those areas. Do you see in the New Directions paper — I have not, but maybe you have — any way that the government is in touch with the other areas of Health, Comsoc and even Environment, where the trailer home people have had some concerns?

**Mr Carter:** I am aware of the web of our society, as I had mentioned there; we're interwoven with so many other particular areas. It doesn't take a PhD or years of consultation or reading to come up with that particular answer. I believe that our government, in its process as it goes across this province looking at the changes and the moves for efficiencies and that sort of thing, is taking into account other areas, things that are affected.

**Mr Curling:** There seemed to be a lot of shock and fright in their face when people make presentations about how we deal with those people who are disabled. If we change this act, as Mr Marchese said, without any realization of the other input, we are into deep trouble. Time after time people are saying: "Don't touch it. It's legislation that is not perfect. If you want to change it, you can improve it, but don't destroy the six other pieces of legislation and make one." You seem to be saying it's a great move to move to one. We're going to say you're going to leave out a whole other dimension of things. You said that you don't see any concern with that.

**Mr Carter:** We constantly have to be reviewing our processes as we handle things, and I'd rather refer to one or two than six pieces of legislation if I were particularly involved in a dispute of some sort.

**Mr Curling:** I wish life were that simple.

**Mr Carter:** I certainly agree with you.

**The Chair:** Thank you very much, Mr Carter. We appreciate your input this morning, and your ideas and suggestions on our deliberations. Have a good day.

#### SHETLAND TRAILER PARK TENANT ASSOCIATION

**The Chair:** Our next presenters represent the Shetland Trailer Park Tenant Association, Denise Dool and Don Maki. Good morning. Welcome to our committee.

**Ms Denise Dool:** My name is Denise Dool. I represent the tenants of Shetland Trailer Park in the capacity of secretary of the Shetland tenant association. With me is Don Maki, one of the directors of the association.

Shetland Trailer Park is located on Highway 17 north, only a few kilometres north of the Sault city limits and a few kilometres south of Heyden in the unorganized township of Aweres. This park is well established and contains more than 50 units, all privately owned. At present we pay to the landlord, who also lives in the park in a trailer, monthly rent of \$164 for our lots. There are



no written leases. For this rent we are supplied water from a community well on the premises, sanitary sewer hookup to a community septic system on the premises, and road and general park maintenance. We do not have garbage pickup or disposal. The landlord also collects municipal taxes, which presently average \$275 per year per unit, and the landlord is vendor for our electricity, which he in turn buys in bulk from Great Lakes Power.

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The landlord does respect our privacy, and lives very privately himself, but is often very slow to respond to our requests for maintenance, particularly if the complaint comes from a tenant he, the landlord, does not like, sometimes requiring the filing of a tenant complain about maintenance with the Residential Rental Standards Board. Currently there are complaints filed about road grading and about a water supply line leak under one of the trailers.

With respect to the discussion paper, the first thing that stands out is that the Mike Harris government bases the majority of its research and proposals on large cities, particularly Toronto. It is our view that the demographics and social structures, and therefore the requirements, of each city are different, with different requirements within a large city such as Toronto and for rural areas, which, again, vary according to demographics and location within the province. The city of Toronto is not a fair yardstick by which to judge the rest of the province.

Our suggestion is that legislation be enacted which will permit organized areas and cities to overrule the Rent Control Act and other related acts by way of local bylaws. This will enable cities to tailor their requirements to their specific needs and to change these bylaws as needs change or deficiencies are discovered much more quickly and efficiently than is possible with provincial legislation. It will also create competition among cities to develop the best climate for both development and the attraction and retention of residents. The province could save vast amounts of money by getting out of the rent control business and related dispute settlements and enforcement for the greatest percentage of the population, retaining control for the rural and unorganized areas only and retaining final appeal jurisdiction for all.

Another point that becomes clear upon reading the discussion paper is that the government is relying heavily upon statistical evidence and the results of surveys, which are also numerical statistics. We do not accept the government's conclusions unilaterally based upon whatever numbers it is using as justification, because the government has not released that information. What percentages of what specific groups or organizations have responded how to what specific questions? What specific information pointing to what specific needs or deficiencies has been compiled statistically from what specific documents or databases?

With statistical data, including surveys and opinion polls, everything depends upon what question you ask, how you word it, how you ask it, of whom you ask it, when you ask it and especially how you interpret the results. Mr Mike Harris is himself very aware of this and demonstrated the flexibility of interpretation of statistical data liberally whenever an opinion poll was not in his

favour during his campaign for election, with statements similar to: "We all know the limitations of poll results. We don't believe this poll is representative of how the people really feel." What we do see is the government's wish to accommodate special-interest groups, namely, the major developers and landlords in general.

The government's claim that developers and landlords need a greater infusion of money because of declining numbers of new rental units since rent control is not supported by simple day-to-day observations of the vast numbers of rental housing units, both large and small, built during the last 25 or more years. Even with existing rent control, these developers have found it sufficiently lucrative and rewarding to proceed. Since the government is using the city of Toronto as its prime example and justification, it should know that Toronto itself is one of the best examples of massive expansion and development over these same years in question.

Another point is one of philosophy: The government claims that landlords need more money to pay for maintenance of existing units. This is a false assumption. When rent is initially set for a given unit, the landlord calculates the capital cost of his investment and, spread out over a given number of years, based upon the life expectancy of the unit for cost recovery, including interest on his mortgage, if any, he estimates the rent needed. In addition, he must add taxes, predictable costs for municipal services and maintenance costs which will be needed on a day-to-day basis, as well as maintenance costs predicted for major repairs to keep the unit up to standard for the anticipated life expectancy. Finally, he will add his desired profit, which may be just to compensate him for his troubles, or it may be to replace the interest he might have made had he simply made passive investments, or it may be because incoming rent is his sole income. Whatever his motivation, he is entitled to his profit just as any wage earner is to his pay. In the case of the landlord, his profit is also his incentive to get into the renting business in the first place.

This form of budgeting is the same for any business and also the same for the vast majority of households. Why then should landlords and developers be given additional moneys to pay for maintenance, which is already budgeted for and paid for monthly by their tenants in advance and in good faith and which said rent has been steadily increasing all these years already, with controlled rent increases and uncontrolled court-awarded capital cost increases to cover cost-of-living or inflation increases? No one says to you, "Gee, bad luck; your roof needs major repair a bit sooner than you had planned for," or, "The cost is more than you had expected, so here, have this extra money."

What we need are much stricter and more realistic guidelines and procedures which the courts must be obliged to follow when awarding permission for above-guideline rent increases for capital expenditures and extraordinary operating costs. For new capital cost investments, such as a swimming pool which was not originally there, no one disputes the landlord's right to cost recovery by way of a limited-time surcharge if the majority of the tenants support the said new development.



The concept of rent guidelines not applying to new construction will be a mistake. Developers will be able to declare a host of buildings as unfit or too expensive to maintain, demolish them, claim capital losses on their taxes and build new units, just to cash in on uncontrolled rent. This will be great for the construction industry and the municipal tax base, and it will create a few new jobs which will briefly make the government look good with its employment statistics, but remember, the government is supposed to represent all the people, not special-interest groups.

If the rent registry is eliminated, of what real value will be the tenants' rights to make application regarding illegal rent increases and illegal charges? How can the tenant research and justify his claim? As to saving taxpayers money by such elimination, that concept is a very shallow justification by the government. The rent registry is computer-based, on computers which already exist, bought and paid for by the taxpayer. The calculations involved are handled by a simple computer program such that only a few operators can operate and maintain the system for the whole province.

On page 5 of the discussion paper, under "Other Issues for Discussion," a question is, "Should there be a requirement that owners be notified in the event of a tenant-initiated inspection...so that owners have a chance to fix the problem?" Yes. If the government really wants to save administration costs, it is obvious. Many owners will give in when they realize they have no more outs and will do the work before the enforcement process goes any further. There is also the human element of fairness to the owner — ours is not a totalitarian society — and the benefit of better future relations between landlords and tenants.

As to the dispute resolution system, we feel it is imperative that it remain in the hands of the government, with the courts as the final level of appeal. It is a slow and costly system but has a greater chance for checks and balances, and thus honesty, than would a privatized or contracted-out system which by its very nature would have to operate for profit. Only by safeguarding our court system and the individual's right to his day in court can we protect one of our most treasured civil rights, that is, being innocent until proven guilty.

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Rent control is particularly important in the case of mobile home parks. The majority of such tenants are with low income or fixed income, such as retired persons who have chosen this style of living so as to match their income and still have a few dollars left for quality of life. Mobile home dwellers generally own their units and have a substantial investment at stake relative to their income.

Mobile homes, once established, are not really mobile for a host of reasons, so owners are at the mercy of the landlord. If it becomes necessary for a mobile home owner to sell, and upon vacancy the landlord is allowed to raise the rent for the next tenant without restriction, the mobile home will no longer be an effective, attractive or financially viable alternative for the prospective buyer, leaving the original owner with a great potential loss.

We also note that no mention is made in the discussion paper about the security of mobile home parks. It is

obviously important that mobile home dwellers have some reasonable assurance that the land owner does not suddenly decide to close the park, thereby evicting everybody, leaving mobile home owners with no place to go and their units unsellable, thus their investments a complete loss. This has been happening routinely all across Ontario, especially where cities expand, annex rural land upon which a mobile home park exists and then find that the cost of providing city services to the park is more than the tax base for the park, so they force the closure of the park. For the city it's great. Developers get to build big, new, expensive houses where the park was and the city gets a huge new tax base. Is this really the way to treat our fellow citizens?

In summary, we support the government's desire to improve existing rent control and other related acts to make the system more fair to everyone, improve efficiency and save money. However, we also ask the government to remember that it represents all the people, not only special-interest groups.

The Conservative governments, past and present, have always been pro-big-business in philosophy and in practice, as to how to keep Ontario prosperous and thus keep people working. In a capitalistic society, that approach is not generally wrong. It keeps the wheels of industry in motion, and competition is an essential element of our system. However, our society has evolved by becoming much larger than it was at the dawn of the Industrial Revolution and has become much more complex, including peoples of all possible ethnic, racial and social backgrounds. Laissez-faire just does not work any more.

We ask our present Conservative government to remember that a previous Conservative government, that of Bill Davis, when Ontario was at its most prosperous, at its industrial peak with the greatest new development and the lowest rate of unemployment, that same pro-big-business government saw the need for rent control. It was not the enactment of rent control which caused the decline in our prosperity. Our decline is the direct result of our wanting it all, and right away, resulting in dual wage earner family units with above-normal disposable incomes. The first few of our society benefited, but greedy real estate companies saw all this extra money and soon housing costs skyrocketed. With that, the cost of everything else was dragged upwards. Rent control did not cause this, but because of this rent control has become essential as one of the very few elements of our society which can control runaway inflation.

Thank you for your attention and, I hope, your consideration.

**Mr Bart Maves (Niagara Falls):** Thank you for your very thorough presentation. You talked about how a landlord, when he builds a new building, would take into account all his costs and what his maintenance will be and so on over the year, sets his rent and charges it, therefore all these increases perhaps are not necessary or tougher to justify.

I have a statistic from Royal LePage that said the average cost in 1989 to build a unit in Sault Ste Marie was \$555 per month and the average rent in 1990, a year later, was \$547 a unit. So the cost to build, without even figuring in profit, maintenance, money for future maintenance, money for major maintenance, hydro, increased



property taxes and so on, was higher than the rent he could get for that unit.

I think some governments in the past with rent control systems, in allowing these increases, have recognized there's that shortfall. Do you have any comment about that?

**Ms Dool:** I don't know a lot about this stuff, but I moved into a townhouse in 1986 at \$434 a month. I moved from it two years ago into this trailer park. I know friends who were paying that and they are now paying \$625. The rent will have almost doubled by next year from what they're paying. That building is pretty much paid off. The townhouses were only valued at \$36,000 in the first place. If they were to be sold individually today they still could get only \$54,000 for them. This is all I know. In about 10 years our rent has doubled. It first started out at I think \$12 a year, the last year I was there it was \$22 and now it's \$27. It appears to me as a renter that there's something in there that they can, as far as it costing them less to build, but in the long run —

**The Chair:** Thank you, Mr Maves. Mr Sergio.

**Mr Mario Sergio (Yorkview):** Thank you for your presentation. You mentioned that Mr Harris is concentrating his attention on the big cities, especially Toronto. Toronto people feel that he's concentrating his attention on the small town. If this is not the case up here, then we wonder where he's concentrating his attention. I believe your association, trailer park associations, have not been consulted on the presentation of this paper.

**Ms Dool:** That's what we felt, that we weren't consulted.

**Mr Sergio:** Exactly. For example, we heard yesterday from three trailer park associations or owners who are going through some very precarious situations at the moment where the test lab has been cancelled or closed, whatever, and the government requires two bottles a week for testing at \$60 a bottle. You would think that your own government is working against you when they don't even consult with the people who are being affected, such as your tenants and landlords and trailer parks as well. If you had a message for the government, what would you tell them, that you should be consulted?

**Ms Dool:** Yes.

**Mr Sergio:** How the laws that are coming from Queen's Park are affecting your life on a daily basis — do you think you should be consulted?

**Ms Dool:** Absolutely. I am a person of Sault Ste Marie. I'm a citizen of Ontario.

**Mr Bud Wildman (Algoma):** If I could be allowed an aside, I think we should be fair and say this is a discussion paper and this is consultation. Having said that, I want to congratulate you very much for your presentation, which is really thorough and well thought out. I appreciate your bringing it forward.

As your representative in the Legislature I appreciate your bringing forward the views of mobile home park dwellers, particularly those from unorganized townships, because most members of this committee will have no experience with unorganized townships since they only exist in parts of northern Ontario. When you said municipal taxes, you meant mainly education taxes?

**Ms Dool:** Yes. There's no municipality tax.

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**Mr Wildman:** That's right, because there's no municipality.

Mobile home parks in the past, when legislation was brought in in the 1970s, weren't included, and we had to fight to get mobile home parks protected under rent control — first rent review — the Residential Tenancies Act and so on. I think it's important that you mention here that mobile home park protection is not mentioned in the discussion paper. That's a terrible omission. This affects a lot of people and, as you say, they are particularly vulnerable because they own their homes. They're not like other tenants in apartment buildings, for instance. They own their own homes. If the "building" — the park, in other words — closes, then you don't just have the problem of finding another place to live and a place to put your furniture. You have to find a place to put your house, and there aren't very many places.

Mobile home park tenants have always been particularly vulnerable to those few park owners who may be unscrupulous. Without proper protection they will be unwilling to speak out against their landlord because they'd be afraid that he might close the park and they'd have nowhere to put their house. I congratulate you and thank you very much for your presentation.

**The Chair:** Thank you very much, Ms Dool. We appreciate your input this morning.

**Mr Wildman:** Mr Chair, just as a matter of information. Members may be aware of this already, but as was indicated, 85% of mobile homes remain on the first lot they're located on, so they aren't really mobile.

DOUG DAVEY

**The Chair:** Our next presenter is Doug Davey. Good morning. Welcome to our committee. The floor is yours, sir.

**Mr Doug Davey:** Thank you very much. I don't have any specific thing to state. It's just a matter of concern over the lack of rent control, if they pass this bill, in that all your people who are on welfare and at present living in apartments and homes, with the cutbacks the government has already made to welfare and if landlords jack up the prices, you have eliminated their access to affordable housing.

Secondly, I have been a renter through the years and I have been a landlord. I know the actions and expenses that are there for a landlord. I appreciate wanting to get back your investment, but at the same time you have a lot of landlords who are looking to get back their investment faster than what is normal. It can create a problem, it has in the past, and without the rent control we have now, where you have access to the government and have it kicked back if it's unfair, the minute you remove that you give them unlimited access to kick out undesirables, as they would put it, and jack up the price without doing anything to improve the places they're renting. They would get more money.

It's not something that is new to anybody. We all went through it in the past. We've been in situations ourselves where we had arguments with our landlord and we've been in situations where tenants had arguments with us.



It's something I'm very concerned about in that you will wind up possibly having transient people who have no place to live because they cannot afford these houses once you remove rent control. They simply would not be able to afford the rents they're going to charge. You would put a vast array of people out on the street and create havoc all the way down the line.

I'm against welfare, in a sense; I would like to see everyone get back out to work, that we didn't have it, but we have to face the fact that there are people who do not have the income to pay higher rents. It's a concern that I really am worried about if they remove the rent controls.

**The Chair:** Okay, sir, you've left ample time for some questions. We have about four and a half minutes per caucus, beginning with the Liberals.

**Mr Curling:** Thank you, Mr Davey. I think you've said it well. What you have said has been said by many people: that the great monster they talk about that is rent control, that must be gotten rid of, the cause for the loss of income by landlords and the exploitation of tenants, is not so. It seems to be the agreement sooner or later that it's a matter of affordability, as you said. The tenants who are needing affordable — and we're talking about those who are most vulnerable in society with low income, who have not got the money to access rent, access a place to live. The landlords themselves, who the government insist would build, are saying the cost of building is too high, so when they do build, they cannot build for those people who have low income. The great monster is not rent control, in other words.

They have also stated that if rent control is taken off, they would not build; they can't afford to build for the kind of price they are saying. So to change and then take away the protection from those people who have had it is a disaster. It's putting people on the road; it's putting people to other devices in order to get the income to access their rent. We see where crime may go up; we see people on the food banks are greater. So what you're saying is right on, sir.

One of the things I would like to make a comment to you, if you don't mind making a comment about it, is the rent registry. It was one of the tools that tenants had in order to see what's available. They say they can shop around and this government talks about how one can negotiate, but the fact is it's not a supermarket where you see each shelf. You have to go around. They want to destroy the rent registry. How do you feel about that?

**Mr Davey:** I'm against that totally. The minute that you have a class of people who have no income, below a thing, and you eliminate the affordable housing, whether a landlord says he can't build to accommodate them, the fact of it is there are lots of places out there now that are paid for and have been paid for for years. They don't have to get their cost back on those. That is your affordable thing. The minute that you relieve the rent control, he can tear down those old places. Then he says, "I haven't got a place for you," because he wants to get back his investment. So you have totally eliminated your housing for that class of people, and the minute you do that, you're going to create chaos.

**Mr Curling:** And this is what is happening. A couple of things the government has done: They have stopped the construction of affordable housing, about 365 projects that were in place. They have reduced the income of the most vulnerable by 22%. They have taken away rent control. Then they say: "Go out now and negotiate. Now you have less money. Now you have less affordable housing to access. Go and talk to the landlord." Do you think that's fair?

**Mr Davey:** No, I don't think that's fair and I don't think it's realistic for anyone in the government or anywhere else to think of that. If you cut down their money and at the same time remove the controls to allow the rents to go up, you are going two-tier. You're not only putting them down one rung, you're putting them down two or three rungs, and you're putting the people right into the doldrums.

**Mr Marchese:** Mr Davey, you're obviously a very concerned citizen.

**Mr Davey:** I am.

**Mr Marchese:** Are you a tenant or a landlord?

**Mr Davey:** I was a tenant for years; I was a landlord for years. Now I'm an owner of my own home.

**Mr Marchese:** You have knowledge, obviously, of the experience of being a tenant and of being a landlord, so you speak from that kind of experience.

**Mr Davey:** That is correct.

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**Mr Marchese:** That's very useful to have.

You're worried that when you decontrol, which is the language that is being used here, there is a strong possibility that the owner of a building will obviously raise the rents as much as he possibly can.

**Mr Davey:** Correct.

**Mr Marchese:** In your mind that's a very real prospect. Would you say that any increase for some of those tenants would be a serious problem?

**Mr Davey:** I would think so. In the present form, where a lot of those tenants have been in an affordable place, once you cut back the welfare benefits they had, that place immediately became as affordable a place as they could afford, and in some cases they had to move out of that and get something that wasn't as good. But by taking the rent control off, the landlord not only increases the place that she was in before, which she no longer can afford, but the other one down below puts his up to the price which she came out of, and she can't afford that. So you're putting the people down lower into less —

**Mr Marchese:** To a worse situation.

**Mr Davey:** I can't think of the word, but down to the level of poverty below what they were before. And it's a forced thing. The government, in a sense, is forcing the issue.

**Mr Marchese:** You mentioned the whole point of negotiation, or at least Mr Curling mentioned the point of negotiating. Some of the people who have appeared in front of this committee make it appear like somehow a poor person, a person with a mental disability, a senior who is very frail and very nervous about the relationship they have with the caregiver or the person in whose building they're at somehow can negotiate that in a very



equal way. Is that an equal relationship, having had both the experience of a tenant and a landlord?

**Mr Davey:** There is no thing in the landlord that requires him to have a relationship or make something there except the government regulations on discrimination, which he has recourse to if you refuse him. But as far as a landlord deliberately putting a place out and making something for them, no, he probably won't do it.

**Mr Marchese:** They have some harassment provisions where you can get a fine, but in your experience, do you think many of these people you have dealt with would simply go to this anti-harassment unit and say, "The landlord is harassing me"? Would they, in the first place, know about it? Would they, in the second place, have the strength to be able to go somewhere and challenge a particular individual? Would that happen, do you think?

**Mr Davey:** Some it would. It would depend upon the individual. Like any right, one person will fight; the other will lay down and take it. But why put people in this situation when you don't have to? That's my question. I mean, why would the government come along and take a class of people and put them into this situation? The government is supposed to be for the people, not against the people.

**Mr R. Gary Stewart (Peterborough):** Thank you, sir, for your presentation. I certainly hope you were a better landlord than you're describing here this morning. I'm quite sure you were.

I'd like to reiterate what has been said, that this is a discussion paper only. This is not legislation. This is a discussion paper only.

But I guess one of the things I have concern about, and we've heard it over the last couple of days where we're hearing that in Thunder Bay there were 1,600 on the waiting list and they're concerned about increases etc, is it appears to me that the previous legislation needs reform and didn't particularly work if we're in this situation now. I'm looking at statistics here in Sault Ste Marie that the rent increases have come down since the vacancy rate went up. My concern to you, and you've been on all sides of the fence, is that it appears to me from what we're hearing now that the old legislation needs reform and needs change. Would you agree?

**Mr Davey:** I would say in some aspects of it, yes. But where you're referring to Sault Ste Marie now, I think that's just a case of supply and demand. If you have a vast vacancy in the area and you haven't got people who are coming, if you want to get the place rented, you have to bring it down to where people will come. It has nothing to do with the economics of removing the rent control. That is strictly a case of supply and demand. The more people who want an apartment, the landlord can and does get more money for his apartment, if it's in good shape.

**Mr Stewart:** But he also can get less as well, and of course that's what happening.

**Mr Davey:** He can get less as well.

**Mr Stewart:** I guess that's what we're suggesting possibly with these types of discussions, that as supply goes up, demand comes down and the cost will come down, and this is where you get some type of negoti-

ations going on if it's taken out of rent control to do the negotiations and then go back in.

My other point, and I'm hearing a lot of it in the last day or two, is the support of access centres being cut. Do you not feel that each one of us, as individuals, should have some type of responsibility for ourselves?

**Mr Davey:** Oh, certainly.

**Mr Stewart:** What's happened under some of the previous legislation is that we built so much in that people eventually don't have to do anything for themselves at all. Maybe it's time to get back to where you — and you do — and I and everyone else should have that responsibility to do something on our own.

Yesterday the first 12 presenters that we had were assisted program representatives all doing the same thing, many being funded by the province, many being funded by the private sector. What we're trying to say here by these types of discussions is, let's find a better way than what has happened in the past and maybe make those changes.

**Mr Davey:** I would say in this I would agree with you 100% that we have too many assistant programmers, assistant this, and we have too much that we have in the past given to people to sit on their butts and not work. It has been a policy through the years, from the time they first introduced that — you give somebody that isn't working and hasn't got anything their income, their rent, you give them their dentist bills, you give them their health care, you give them all kinds of things that the working man has to pay for. So you have created through the years an economy below, or an economy of give and take and not putting out any effort to get it.

I'm a firm believer in making everyone work — in other words, work at something, even if it's sweeping the street, to earn what money they get. The minute you give somebody something for nothing, they expect that. And you now have third-generation welfare that have no intention of working, and their children won't have any intention of working, because you've put them into that category and done nothing to help them out.

**The Chair:** Thank you, Mr Davey. We appreciate your coming forward this morning and giving us your input. It's important to us. Thank you very much.

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#### ELSTRONG MANAGEMENT LTD

**The Chair:** Our next presenter is David Elgie from Elstrong Management Ltd. Good morning, Mr Elgie. Welcome to our committee.

**Mr Dave Elgie:** Good morning, Mr Chair and members of the committee. Thank you for the opportunity to speak on the new proposed tenant protection act.

My name is Dave Elgie. I'm president of Elstrong Management Ltd. My company currently manages 450 rental apartment units, most of which are located in the city of Sault Ste Marie. I also have a personal financial interest in many of these rental properties.

To give you a little history on my experience, I was involved in apartment development and construction in the late 1970s and early 1980s. At that time there were no rent controls on new buildings and little or no non-



profit housing being built to distort the rental housing market.

Rent controls introduced to new buildings in 1985 and construction of substantial numbers of non-profit housing units in the late 1980s and early 1990s have created a rental market which is obviously not conducive to new construction. In fact, these events have created significant difficulties for the private landlord owning rental housing stock built in the 1970s and early 1980s.

The competition from non-profit housing has prevented private landlords from raising rents regardless of the increases allowed by current rent controls. We have many apartment units in Sault Ste Marie where rents have not been increased since 1992. Brand-new, non-profit housing units provided at market rent have resulted in high turnover of tenants moving from private rental housing units built in the 1970s and 1980s to new apartments at the same or lower rents than the older units were charging. This turnover has resulted in higher expenses such as advertising, redecorating, vacancy losses, you name it. The result has been that many private landlords have been unable to afford to maintain their buildings to the extent that they would like. Examples: Roofs are passing their expected useful life, corridors and common areas need redecorating, mechanical systems need upgrading.

As a property manager and a private landlord, I applaud the new Ontario government for terminating the non-profit housing programs. I am also pleased to be here today to speak on the changes to the rent control legislation.

Overbuilding in the local, non-profit housing market and reduction in welfare payments have resulted in high vacancy rates in the city of Sault Ste Marie. This winter vacancy rates were as high as 20% in some buildings and probably averaged 5% throughout the city. Some landlords have actually reduced their rents due to these high vacancy rates rather than increased rents according to rent controls.

Of the 450 apartment units managed by Elstrong Management Ltd, less than 10% of the apartments are at or near current maximum legal rent under the current legislation. In other words, rent controls in Sault Ste Marie are really not controlling the market. Removal of rent controls on apartments changing occupancy will have little effect on rent levels in this city. Competitive forces will in most cases keep rents from escalating, and as I've previously stated, some rents have been decreasing.

The new act proposes to pass on savings on extraordinary decreases in operating expenses, such as property taxes, to the tenant. However, there doesn't appear to be a proposal to allow rent increases where there is a substantial increase in operating costs, again say property taxes. With funding cuts to municipalities and proposed property value reassessment, the landlords may be caught in a financial squeeze due to increase in costs, rent controls and market forces.

With no increases in rent due to market forces and the possibility of significant municipal tax increases, the landlords may be unable financially to provide needed repairs, yet legislation proposes to punish serious offenders of property standards acts. I think this is implying that the landlords don't want to do the repairs, but the land-

lords have to have the finances in order to have the repairs done.

It would appear from the information provided that the concept of maximum legal rent will be lost. Under current legislation, the landlord is able to catch up on rent increases in times of improved market conditions, up to the maximum legal rent. As in the case in Sault Ste Marie, under the proposed legislation rents will be locked in at the current rent charged and increases over the annual allowable rent increase will only happen when a tenant vacates and a new tenant takes possession. This means that even if the local market improves for the landlord, his ability to catch up on previous allowable increases will be lost. So you have some landlords caught in a financial squeeze that they can't improve upon.

Many local landlords have been able to remain in business due to decreases in mortgage costs on their properties. However, I'm sure the time will come when the mortgage rates will increase. The increase in financing costs will not be able to be passed on in the increases in rent.

I'd like to briefly summarize my presentation with the following points:

The new legislation will only significantly affect rent levels in markets of low vacancy rates. This is certainly not the case in Sault Ste Marie at this time.

The legislation proposed penalizes the landlord if property taxes increase significantly but gives away any advantage that he may have should the taxes decrease, by allowing tenants to make rent reduction applications.

The concept of maximum legal rent should be maintained to allow landlords in high-vacancy areas the opportunity to some day catch up on previous rent increases not taken.

In the longer term, the new legislation, combined with market forces, will encourage the private market to provide additional affordable housing in the communities where there is a need, for example, very low vacancy rates. This is a far better method of encouraging housing than the previous non-profit programs, where housing has appeared to have been supplied based on politics only, not on need.

**The Chair:** We've got about four minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** A few quick questions. In your summary, in number 2 you say, "Substantial increases should be allowed to be passed on to the tenant." My understanding is that this proposal allows for any tax increase that one has, for the landlord to pass that on to the tenant. What you're saying there is that's not the case.

**Mr Elgie:** What I read, it appeared that if there was a saving in taxes, the tenant could apply for a rent reduction. I did not see that an increase in taxes could be passed on, if that's the case.

**Mr Marchese:** As far as I know, that is the case with the proposal. Is that correct? Yes.

In your summary there, number 3, what you would like, then, for clarity, is the elimination of rent control, correct?

**Mr Elgie:** Likely, eventually.

**Mr Marchese:** But you want to keep the maximum rent allowable.



**Mr Elgie:** What I'm saying in communities —

**Mr Marchese:** No, I understood it carefully. I did understand.

**Mr Elgie:** Yes, I guess that's what I'm saying.

**Mr Marchese:** So you want both.

**Mr Elgie:** You could look at it that way.

**Mr Marchese:** I did look at it that way; I just wanted clarity for your part.

In number 4, then, you say, "In the longer term, the new legislation, combined with market forces, will encourage the private market to provide additional affordable housing in the communities where there's a real need." We built non-profit housing and cooperative housing because the private sector wasn't building and is not going to build, because to build, you need a demand. The demand requires that we can afford to buy, and then the supply meets it. So no one was building affordable housing. That's why we did it.

What you're saying is it's sad because it competes with you guys, and if they weren't there, you'd be able to increase your rents. Is that more or less correct, what I'm saying?

**Mr Elgie:** I think the problem is that it's which comes first. In the 1970s and early 1980s, private landlords built apartment buildings. Under some certain programs — there were graduated payment mortgages, there was the assistant rental program — there were various programs that supplied either tax deferrals or special mortgage rates, which were not subsidized by the government, to produce housing.

**Mr Marchese:** I'm telling you that every program that has happened in the past required assistance from the government, and in the future, Mr Lampert, the man who wrote a report for this government, says that if you want us to build, private sector, you're going to have to give us a whole long list of things. They are, eliminate provincial capital tax — that comes from me, when they do that; from you too — cut in half the CMHC mortgage insurance fee, streamline regulations on building — we know what that means — halve the GST payable, reduce the development charges, equalize property taxes — all these things, we pay for that, the taxpayer pays for that in the end.

**Mr Elgie:** I'd like to argue there was a program in the late 1970s called the graduated payment mortgage which was not subsidized by the government. In effect, what you did was not pay the entire interest on the mortgage in the first few years.

**Mr Sergio:** Somebody must be paying it.

**Mr Elgie:** Many apartment builders built under that mortgage. The theory was if there was some inflation your payment would go up and your rent would catch up.

**Mr Marchese:** But Mr Elgie, the future problem we've got is that no one is going to build affordable housing because the developer is not going to build unless that gap is bridged, therefore, people who require housing — and that list is growing, because we're now having an inequality gap, an income gap that's going to make it worse for the person who's at the bottom. So that demand is going to become greater, the private sector will not build. Who takes care of them then?

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**Mr Elgie:** I think that demand is better met by programs such as a rent supplement program, which has worked fairly well, I believe, in Sault Ste Marie and many communities.

**Mr Marchese:** But who will build?

**Mr Maves:** Maybe I can help Mr Marchese —

**Mr Marchese:** Oh, you're so kind, Bart.

**Mr Maves:** A builder I know in Niagara Falls in the early 1990s negotiated a price for some land and was going to build some apartments on it. He had done it verbally. A friend who was the land owner called him back a couple weeks later and said: "I'm getting twice as much as the price we negotiated. I want to sell it to this other person." He said, "Go ahead. That's where you should go," and he asked the question, "I have to know who's going to pay you twice as much," and he said, "The government." The government of Ontario purchased the property and built non-profit housing.

He's frustrated because he was going to build new apartments to add some supply to the market, and his own tax dollars were used to compete with him. Do you feel his frustration as a builder?

**Mr Elgie:** Certainly. The amount of non-profit housing program and the fact that those beautiful new housing units that cost the government \$110,000 or \$115,000 or \$120,000 were being rented for the same price as my buildings that I built in 1979 at a cost of \$28,000 a unit, and I'm lucky to break even on — how could I possibly go out and build a new unit, which would cost me probably \$75,000? So we're seeing the government spending \$110,000 or \$120,000 on something that the private market could probably produce for \$75,000 but can't because we don't have the built-in subsidy allowance. It doesn't make any sense.

**Mr Maves:** It's actually high-cost, high-subsidy housing.

**Mr Elgie:** Yes.

**Mr Maves:** There's no such thing as brand-new low-income housing.

**Mr Sergio:** I wonder how you're going to do it.

**Mr Maves:** The next thing I want to ask you is, you talk about vacancy rates as high as 20% in Sault Ste Marie. We heard in Toronto from several people that 75% or 80% of all landlords have buildings of four units or less. They're not included in the CMHC calculations of vacancy rates. We're told that it's 2.8% in Sault Ste Marie right now. You said it's something like 20%. Is that because of that same phenomenon, that there are smaller buildings here that aren't counted?

**Mr Elgie:** No, the 20% was a phenomenon due to a rapidly changing market and locations. The main change in the market that brought it about was I think a saturation of non-profit housing plus a reduction in the welfare payments. What happened was some people who were receiving welfare went home to mom and dad or doubled up, and those apartments became vacant and the buildings that had a higher percentage of welfare tenants all of a sudden got a high vacancy rate, and there's no private market to replace them.

**Mr Wildman:** The apartment wasn't affordable —

**The Chair:** Mr Wildman, this is Mr Maves's time.



**Mr Elgie:** No. What that indicates to the landlord — we did not see any of the welfare people go and live on the street. They either went home to mom and dad or they moved in with a friend. As a landlord, I have no problem with that.

**Mr Maves:** You also talked about, and we saw this in Toronto too, that 50% of units in Ontario are rented already at below their legal maximum. You said something like 90% you believe in Sault Ste Marie are below the legal maximum.

**Mr Elgie:** Yes, 90% of mine are.

**Mr Maves:** So if we all of a sudden remove rent controls, it's not logical that rents are going to be jacked way up, because the market won't bear it.

**Mr Elgie:** Not in Sault Ste Marie.

**Mr Smith:** One of the issues that's raised, and the discussion paper deals with the issue of property standards and maintenance. From some presenters we've heard a concern or a suggestion that there should be a test of severity applied so that in the event that there is a maintenance problem, a property standards official wouldn't necessarily be able to proceed to ticket you. Would you prefer to see some sort of test of severity — for example, if it's flaking paint or some minor renovation, or remedial work that has to be done — applied before we get into some punitive action by a municipal property standards official?

**Mr Elgie:** I would certainly hope there would be. The property standards is a very broad animal that we deal with, with the city, at all times and in some cases the problem that the tenant has complained to the city about and the property standard person has gone out to look at is a problem created by the tenant, for example, that they've damaged their carpet or poked a hole in the wall. I would hate to think that a landlord would be fined because of an action of a tenant. There certainly needs to be some work on that.

**Mr Curling:** Thank you for your presentation. I wonder if you could help Mr Maves and myself in this one. The Ontario Housing Corp has 84,000 units that they're speculating they wish to sell, but they want to use taxpayers' money to fix them up nicely and sell them to the private sector. Taxpayers' money. Do you think that's right?

**Mr Elgie:** I believe the units should be sold to the private market; I'm not sure they need to be fixed up. I think that would depend on an individual basis. In many cases the Ontario Housing units are in quite good shape and are very marketable on a rental and an owner basis.

**Mr Curling:** So you feel that we shouldn't be fixing it up, we'll sell it the way — well, I disagree with that.

**Mr Elgie:** I don't know in all markets. As I say, my experience with Ontario Housing units is that generally they're in fairly good shape.

**Mr Curling:** I think the government is one of the worse landlords we have. Their buildings are in terrible condition. As a matter of fact, you should be proud, as a private landlord, that you're in better shape than sometimes the government buildings themselves.

You stated here too, and I'm trying to find it — oh yes, on maintenance. Help me here on this one too since we are talking about that. They're passing around that

there's \$10 billion worth of maintenance to be done on these buildings. The guidelines that were put in place over the years made provision for maintenance, profits. It's taken into consideration all the operating costs of a building. But the buildings were not being maintained properly, and they still got an additional 3% or 4%. They're asking now in this that an additional percentage should be given to the landlords so they can fix their buildings that they did not fix in the past when they got money to do so. Do you think that burden should be placed back on the tenant again for additional costs?

**Mr Elgie:** I think if you look in the local market where I have experience, we have been allowed increases that have been built in, money to maintain items in the building, but the landlords have not been able to take those increases due to market forces. So we are sitting in buildings with rents established in 1992 with 1996 costs. We have not been able to take increases that have allowed for the profit or for the shingles or for the repairs to the balconies. That work still needs to be done. The new legislation would in effect cap those rents and we would still not be able to take advantage of that opportunity until market forces allowed us or until a tenant moved out.

You're really talking about two different circumstances: a market where you've had market forces in effect, and a market, say, in Toronto where there has been a tightening of the vacancy and an ability for the landlord to establish a reasonable return on investment and maintain his repairs. I believe in Toronto that's just come about as well.

There has been a long period of time where landlords have been very tight for money. Many have gone bankrupt. Many buildings have not been able to be kept up to standards, and I don't believe it's because the landlord took the money home.

**Mr Curling:** Would you agree that we are now in a recessionary time where there are layoffs, people are downsizing, people's incomes have been cut, so the access to the kinds of buildings that you have — you can't afford to drop the rent any further because of the costs to maintain it, therefore the basis of all this is the unaffordability of this for those people to have access to your units. Would you say that one of the main causes about accessibility is because they haven't got the income to do so, and it's not really rent control that is causing this?

**Mr Elgie:** That's true in many cases, but what happened locally and, I'm sure, happened in other communities, is when welfare payments were reduced, many people who were marginally able to afford apartments doubled up or went home to mom and dad. Two years and three years —

**Mr Curling:** Some of them have no mom, some of them have no dad. Some can't double up.

**The Chair:** Thank you, Mr Elgie. We do appreciate your input this morning.

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#### ALGOMA COMMUNITY LEGAL CLINIC

**The Chair:** Our next presenter is Wendy Bird from the Algoma Community Legal Clinic. Good afternoon,



Ms Bird. Welcome to our committee. You have 20 minutes. Should you allow any time for questions, they would begin with the government. The floor is yours.

**Mrs Wendy Bird:** Mr Chairman, members of the committee, the introduction of the consultation paper *Tenant Protection Legislation: New Directions for Discussion* states that the provincial government has identified the problem with Ontario rental housing. They attribute the problem to the fact that "the private sector has no interest in investing in rental accommodation." The basis of the proposals in the government's consultation paper is aimed at getting the private sector back into the rental housing market by encouraging it to build new housing. Unfortunately, I believe the assumptions the government relies on to reinterest the private sector are based on ideals and not reality.

They will not in the end encourage the private sector to build, but they will cause untold hardship to millions of tenants in the province of Ontario by unjustifiably increasing rents and eroding tenants' security of tenure. These proposals will pit tenants against landlords in bitter and acrimonious disputes, with little hope of effective resolution.

Rent control was first introduced in 1975. At that time the Conservative government circulated a consultation paper outlining the reasons why it had no choice but to institute rent control. The consultation paper showed that vacancy rates had fallen dramatically between 1971 and 1974 from about 3.5% to 1%. Private rental housing starts fell from a peak of about 40,000 a year in 1972 to only a few thousand in 1975. Ontario's consumer price index climbed dramatically throughout the 1970s, peaking at close to 12% in 1981, when mortgage interest rates reached 21%. Condominiums were also first introduced in the early 1970s.

These economic factors, coupled with the weak market demand, the weak market demand being caused by increasing numbers of tenants who could not afford the rents charged for new rental housing, caused a market failure. There can be no market supply without a healthy market demand. The private sector will not and cannot build housing where there is insufficient demand. The private sector diminished its involvement in building rental housing before the institution of rent controls. Rent controls in Ontario are a response to a problem, not the cause of the problem. Clearly rent controls are introduced grudgingly by governments in response to severe market realities where the supply and demand mechanism of the market no longer functions.

It is an economic reality that markets consist of supply and demand. If there is little or no demand for a product or service, then there will be no inducement to supply. In the case of rental housing in Ontario, since the private sector is not producing new rental housing, there can be no demand for the product. Although there are millions of tenants in Ontario and vacancy rates are low, most tenants can barely afford the rents that they are presently paying. They cannot pay the high rents necessitated by the high cost of new construction. Since there are not enough tenants who can afford the high rents of new housing, there is no demand to stimulate that market.

The key issue here is the high cost of newly constructed housing. To remove all barriers that make the cost of new construction so high is not possible. To remove some of them would result in significant government subsidy via lost revenues from taxation and other charges. The government decided against subsidizing the cost of housing development when it cancelled the non-profit housing development initiative.

Since so few tenants can afford to pay the cost of new rental housing, there is very little market demand, but there is tremendous social need for housing. Markets do not respond to social need because, of course, it is not economically feasible.

The government assumes that rent decontrol and the removal of other tenant protections such as the Rental Housing Protection Act will remove the barriers to new investment. It is unclear why forcing tenants to pay more for rent for the same units and reducing their security of tenure will lead to more investment. Landlord groups themselves are telling the government that this is not enough. Despite assertions from landlord groups, repeal of the Rental Housing Protection Act and rent control legislation are only minor impediments to the private sector's development of new housing. One has only to look at the Lampert report commissioned by the Ministry of Municipal Affairs and Housing and the market situation in place before this legislation was introduced to clearly see this.

In his discussion paper, *The Challenge of Encouraging Investment in New Rental Housing in Ontario*, Mr Lampert informs the provincial government that "there is serious doubt whether relaxation of rent controls will itself be sufficient to stimulate private rental investment on the scale required." Mr Lampert goes on to say, "There is a significant gap between the market rent of new rented projects and the rent required to make rental housing an attractive investment, given the current costs of constructing new rental buildings."

What are the real barriers that prevent the private sector from building? Mr Lampert informs the Ministry of Municipal Affairs and Housing that they are taxation issues, development costs and financing.

The problems complained about in relation to taxation are that the federal government has substantially reduced income tax advantages for housing developers, that the imposition of the GST has substantially increased construction costs, that provincial capital taxes have increased the cost of construction and, finally, that municipal property taxes are double or more the property taxes charged for owner-occupied homes.

The development costs that are said to hinder rental housing development mostly relate to those charges levied by municipalities. They are municipal development charges, municipal fees, such as for building permits and inspections, planning application fees and so on, and municipal development requirements such as demand for parkland dedication. The Ontario building code and regulations are also cited as a problem to be overcome.

The last issue involves financing concerns, and Mr Lampert states only that it is clear that there is a restrictive lending environment which discourages investment.



Many of these demands by the private sector are not within the provincial government's power to change. If the provincial government cannot deliver all the demands of landlords and developers, then there is certainly no reason to believe that the private sector will be enticed into investing in the residential rental market. Thus, the removal of tenant protections under the Rent Control Act and the Rental Housing Protection Act will cause hardship to tenants needlessly.

The private sector has also made it abundantly clear that even if all the impediments they view as barriers to building housing are removed, housing will still be very expensive. It will be at or beyond the high end of the rent scale for rental housing, and there are few tenants who can afford this housing, perhaps too few to make investment in rental housing attractive to landlords and developers.

Concerning the situation prior to the enactment of rent control and the rental housing protection legislation, we can see that the market failed to provide housing and that the legislation is in response to that failure, not the cause of that failure.

The government proposes to eliminate rent control gradually by removing it from the unit when a tenant moves out. It is our assertion that the removal of rent control will primarily harm the most vulnerable tenants: the elderly and the disabled who are on fixed incomes, students, the unemployed and families with children.

The major flaw in decontrolling rents in this way is recognized by the government itself. The flaw is that there will be an overwhelming temptation for landlords to force their tenants to move so that the rents can be raised. It is anticipated that landlords will harass tenants and may allow maintenance to deteriorate to force tenants out of their homes.

The government believes it has addressed this flaw by promising an anti-harassment unit and increased fines against landlords to prevent such abuses. This is unlikely to stop harassment. In the first place, given the present climate of fiscal restraint, it is unlikely that an anti-harassment unit would be given the staff and resources to assist large numbers of tenants all over the province. In the second place, many tenants may be afraid or feel too intimidated to utilize the service. This is particularly true of seniors and the disabled. It is also true that although harassment may be present, it can be difficult to prove. Most people who intend to harass and intimidate others do so verbally away from the presence of witnesses.

In looking at the present levying of fines for violations of the Landlord and Tenant Act and other pieces of residential tenancy legislation, we see that although the maximum fines provided for in the legislation are very large, the actual fines imposed are very small. If this trend continues, landlords will find these fines to be a minor annoyance far outweighed by the benefit of being able to raise the rent. Without a requirement for stiff minimum fines to be imposed, this penalty will just be another cost of doing business in Ontario.

There is some concern that the removal of the rent registry and a landlord's ability to charge any amount of rent to a prospective tenant will lead to further abuse in terms of discrimination. Presently, rent control is in effect

and tenants can check with the rent registry to ensure the amount a landlord claims the rent to be is in fact the true rent. Without these controls, landlords can quote any outrageous amount for the rent if they do not want to rent to a particular tenant because of their race, religion, marital status or the fact that they may have children.

The government has suggested that tenants will be able and will likely need to negotiate the new rent on decontrolled apartments. This is, at best, very unlikely to happen. At present tenants can in theory negotiate the terms of their leases. That doesn't happen either. Landlords generally have a take-it-or-leave-it approach and are willing to let a unit sit empty for a while rather than negotiate a lower rent that they would be really stuck with until that tenant moves out. Such a view of landlord-tenant relations is naïve at best and is certainly reminiscent of the government's advice to welfare recipients last year when these people were told they could negotiate with grocery stores to pay 69 cents a can for tuna.

There is a presumption that the marketplace will govern the increases in rents and that they will not be much higher than they are at present. This again is a naïve assumption. The fact that it does not work is the reason rent controls were introduced in the first place. Without any guarantees that new housing will be built, there will be a shortage of housing that can artificially drive up the cost of rents. Shelter is not something people can do without in Canada. It may force many tenants to pay a disproportionate percentage of their income on rent, and this will be particularly true of vulnerable tenants on fixed incomes. Others may become homeless because their income is simply not great enough to pay for rent.

#### 1230

Nothing happens in isolation. There is only so much money available to the people of Ontario. Wages have been stagnant or declining in the past few years, and many people are concerned about losing their jobs. When tenants spend more of their income on rents, they have less to spend on other things. It's estimated that the cuts to general welfare assistance in 1995 removed approximately \$2 million from our local economy. How many more millions will go into the pockets of landlords and be removed from circulation in our economy? Local business may suffer greater hardships than they already have.

In terms of maintenance, tenants have long been concerned about the lack of maintenance in their buildings and rental units and the difficulties in enforcing reasonable maintenance. Despite generous allowances built into the rent control system, some landlords refuse to adequately maintain their buildings and rental properties.

Presently, rent control further encourages maintenance by allowing a freeze on the rents if there are outstanding work orders against a rental property. In serious cases the rents can be reduced until the property is brought up to a minimum standard. Eliminating these incentives for maintenance will do more harm than good. It will allow those landlords who presently do not make needed repairs to keep from doing anything at all.

The government proposes to eliminate the present incentives under rent control for good maintenance and download the responsibility on to municipalities. Presently, municipalities have the ability to enact minimum



standards for residential premises. Many municipalities have such bylaws, but all do not, as they're not required to have them and they're not required to enforce them. Further, those municipalities that do have minimum standards and do enforce them indicate a wide range of standards and enforcement; there can be a great variation from municipality to municipality. There is no guarantee that there will be any standards or enforcement in a given municipality. This is particularly true at this point in time when the provincial government has drastically cut the money it gives to municipalities, endangering their present services and causing user fees to be charged for some services.

The solution of downloading the enforcement of maintenance to municipalities also does not contemplate the situation where there is no municipal organization. Many parts of northern Ontario are not municipally organized. The area north of Sault Ste Marie is such an area, and it will be left unprotected. Four large mobile home parks are situated in this area, and these tenants will have no recourse where there's poor maintenance. Most of these mobile home parks have already had significant maintenance problems.

The government proposes that increased fines will take care of the problem of landlords who refuse to maintain their rental properties. Again, having a fine of any amount is irrelevant if there are no standards in place and if there is no enforcement of those standards. Historically, the fines imposed tend to be very low, even when the maximum amounts that may be charged are very high. If it's cheaper to pay a modest fine occasionally than to do the maintenance work required, then some landlords will opt for paying the fine.

The Rental Housing Protection Act was enacted in 1986. It was developed by the government of the day to respond to a crisis in the rental housing market. At this time, there was a serious decline in the amount of rental housing available to tenants, and tenants were faced with unreasonable eviction. The decline in the number of rental units was due to the demolition of existing housing, conversion of housing to uses other than residential rental and extensive renovations to affordable rental housing. The Rental Housing Protection Act was enacted with two purposes, the first being to protect the existing stock from eroding to unacceptably low levels, and second, to protect sitting tenants from being unreasonably evicted.

The government proposes to reduce the mandate of the Rental Housing Protection Act to protect only sitting tenants and to remove the requirement for municipal approval before landlords can convert or demolish or extensively renovate rental housing. Removing the requirement for municipal approval effectively repeals the Rental Housing Protection Act entirely. It also removes all protection for the sitting tenants, despite the minister's claims to the contrary. To repeal the Rental Housing Protection Act and call this tenant protection legislation is to make a mockery of the concept of tenant protection. Without the limitations of the Rental Housing Protection Act, landlords will once again be free to convert and renovate units. Conversion to unregulated cooperative and condominium housing gobbled up thousands of rental

housing units prior to 1986. There is every reason to believe that this conversion practice will begin again with the repeal of the Rental Housing Protection Act.

This will certainly erode the present supply of rental housing, causing fewer units to be available for tenants to rent. Fewer units available will cause housing shortages, which in turn will drive up the rents because the market supply and demand mechanism no longer functions in these conditions. A lack of rent control will further exacerbate the problem, providing no limit to the amount that can be charged for the rents of the housing that is left.

Existing tenants can seldom afford to purchase their units, and they will end up dispossessed of their homes. The units that will disappear from the rental housing stock will mostly be affordable units since, of course, there is no reason to convert or renovate newer, high-cost housing.

The Rental Housing Protection Act was extended to cover mobile home parks and land-lease communities in 1994. One of the major reasons for this extended coverage was to protect sitting tenants from eviction when landlords closed or converted this type of housing to evade their obligations to make repairs. This type of housing is unique. It's unique because the tenant owns the home and rents only the site on which the home is situated and the site services. Eviction for these tenants can be financially ruinous.

The significant difference between mobile home parks and land-lease situations, as compared to regular rental housing, is the relative captivity of the tenant. Uprooting one's home is a truly expensive proposition when compared with the ease with which may one remove one's belongings from a rented apartment, and in many of the more rural parts of the province, it is not possible to move; there are few other mobile home parks or land-lease communities, so there is simply nowhere for the tenant to move to.

In conclusion, the provincial government is instituting drastic changes to residential tenancy law to entice landlords and developers to build new rental housing. As we can see, the government has based its rationale for these changes on wrong assumptions. They have assumed that ending rent control and repealing the Rental Housing Protection Act will encourage the private sector to invest in new housing. The changes the government proposes to rent control and the repeal of the Rental Housing Protection Act will only benefit existing owners of rental housing, not new developers.

These changes will cause needless hardship to all tenants. There is no conceivable way that any tenant will benefit from the introduction of the government's proposed policies. The imposition of these policies will be particularly devastating for our most vulnerable tenants, seniors and the disabled who are on fixed incomes and those who are receiving social assistance or who have become unemployed. These groups may well become de-housed in increasing numbers as government policies provoke an unprecedented crisis in rental housing.

The government will also be engineering a significant redistribution of financial resources if it proceeds with its plans outlined in the consultation paper. Millions, if not billions, of dollars will be taken out of circulation and



instead paid to landlords. Our experience with the cuts to the benefits provided to general welfare recipients showed us that the poor spend what funds they have immediately in their local economies. The well-to-do do not.

Finally, these assumptions and policies were tried in British Columbia in the early 1980s. Now, more than a decade later, we can look at British Columbia and we see that it has the country's lowest vacancy rates along with some of the country's highest rents. The private sector did not respond to these same initiatives in British Columbia as they will not respond to this government's efforts here. Thank you.

**The Chair:** Thank you, Mrs. Bird. We've got just a minute left of your time, so there's no effective time for questions. Did you have a final summary statement you'd like to make?

**Mrs Bird:** No, that was it.

**The Chair:** Okay, thank you very much. We appreciate your attendance and your input this morning.

1240

#### UNITED TENANTS OF ONTARIO, NORTH CENTRAL REGION

**The Chair:** Our next presenter is Nancy Bailey of the north central region of United Tenants of Ontario. Good afternoon, Ms Bailey. Thank you for being here. The floor is yours.

**Ms Nancy Bailey:** This brief is being submitted on behalf of United Tenants of Ontario, the north central region of Ontario, including Sault Ste Marie, Sudbury, Elliott Lake, North Bay, Parry Sound, Barrie, and surrounding districts and counties.

In this vast area we include all types of tenants: mobile home communities, public housing, non-profit and co-op housing, regular rental units and high-end units. We are both city and rural areas. Our organization is presenting this brief because of the concern over the government's proposal, which will hurt the tenants of Ontario, especially in the north.

The government's paper is the biggest attack on tenants' rights in over 20 years. If this is followed through, it will be the end of rent control in Ontario and the beginning of wide-scale homelessness. Funny how another Conservative government of Bill Davis saw it as necessary to have these protections in place, but this government doesn't see the same need.

The proposal will also mean less affordable rental housing, poorer relationships between landlords and tenants and less maintenance being carried out by the landlords.

The government's paper sets out a number of goals for its proposals. On the major goals, these proposals fail miserably.

Premier Harris made two promises to Ontario tenants: (1) that rent control would continue, and (2) that any reforms to rent control would result in lower rents for tenants.

It is unfortunate for Ontario tenants that we have a Premier who doesn't mean what he says. The changes to the Rent Control Act, the Landlord and Tenant Act, the Rental Housing Protection Act, Residents' Rights Act,

Land Lease Statute Law Amendment Act and Municipal Amendment Act are unacceptable.

**Rent increases:** The government is effectively ending rent control in Ontario. With the vacancy decontrol plan of the government, as each tenant moves out, the landlord will be able to increase the rent to whatever they want. The government's own study, the Lampert report, estimated that 25% of tenants move every year; over five years 70% move. This means that within five years the majority of tenants would be paying more rent than under current law and even those tenants who don't move will have less protection than before.

While tenants have been losing ground in the affordability race, landlords have been pocketing the moneys lawfully targeted for necessary capital expenditure. Citibank quotes the annual yield for an apartment in Toronto as 10.8%. The current Rent Control Act provides for a generous rent guideline. Landlords can increase rents by 2.8% plus an extra 3% above this for capital expenditures. At 5.8%, it is far more than the tenant can expect as an increase in wages or pensions.

The government's proposal will raise the limits on rent increases. For capital repairs, rents will be allowed to increase up to 4% a year above the guideline, and there is to be no limit on how much rents can increase based on property taxes and utilities. Right now, 20% to 40% of a tenant's rent is taxes, depending on the municipality. That is why the cities of Toronto and Hamilton passed bylaws that the tenant assessment form has to include how much the taxes for that unit are.

As for utilities, here in the north last year was brutal: three months of never-ending snow to over 200 inches for our six-month winter and over a month of minus 20 degrees Celsius to minus 40 degrees Celsius. So of course heating, gas, electric and snow removal costs were way over budget for all buildings. But if the provincial government won't help the city of Sault Ste Marie pay for its snow removal costs that were astronomical, why should the tenant get another rent increase to cover the building's costs? The year before, we had a green Christmas and most of the winter was very mild. Does this mean we'd get a reduction in the mild years? I don't think so.

If the tenant doesn't have the assessment information and doesn't also get reductions for lower utility costs, these increases should not be included in any new legislation.

The current system proposed by the Ontario government seems to favour the current system in British Columbia. This system gives the tenant the right to appeal, for a \$35 fee, an alleged unfair rent increase. The underlying assumption is that all rent increases are fair unless the government hears about it and determines it to be unfair. This system assumes that all tenants are capable of making an appeal and that the relative abilities of landlords and tenants to advocate are equal. In the real world there is a terrible imbalance. In such a system, the majority of tenants would be excluded. This includes low-income people, the elderly, the illiterate, those with disabilities, non-English-speaking, the uneducated, workers without time and often no right to take off the time, and the intimidated. As a result, the tenant with



time, energy and \$35 can fight the system, but those without pay up or move.

Presently, there are a lot of units not up to building or fire codes that the tenant has not complained about due to not having the knowledge of their rights, intimidation, friendship with the landlord or not knowing who to complain to. If all of a sudden the landlord is given the right to pass through to the tenant the cost of these repairs that should have already been done, you bet they're going to pass them on. There should be an eligibility test for capital expenditures and a fair formula for the allowance of these expenditures. The tenants should not have to cover unnecessary or luxury renovations. To pass on these costs would be unreasonable to the tenant who didn't originally rent a high-end or luxury apartment. The application fees for rent review should be minimal — under \$10 — to allow for low incomes.

**Maintenance:** Maintenance is a right paid for in the rent. Even with rent regulation in the Landlord and Tenant Act, some landlords failed to provide adequate maintenance to a reasonable standard. Some have faced consequences, but more have profited.

The major problem is that the system is complaint-driven. If the tenant doesn't know who to complain to, they don't. There are currently three ways a tenant can remedy the situation: municipal property standards by-laws; abatements of rent; and applications for reductions of rent. The problem is that the municipalities have even less money now than they did before to put into property standards. Further reductions from the province to local governments will make the property inspection situation worse.

In a lot of areas the rent freeze was the most effective tool to get work done. If the landlord had property violations, they couldn't get a rent increase until the work was done. This worked because the landlord had a reminder every month that they couldn't get more rent. The province should intervene where a municipality does have the bylaws but doesn't enforce them. It gives the tenant another avenue of approach to the problem.

Landlords should not be notified in the event of a tenant-requested inspection. It is their, the landlord's, unit. They should have known, in writing, that there was a problem by this point.

**The Landlord and Tenant Act:** The government is proposing to take Landlord and Tenant Act disputes out of the court and have the issues decided by tribunal, which will also decide on rent regulation issues. The discussion paper doesn't provide much clarity on how this tribunal will operate, but under any new system, the decision-makers must be knowledgeable, neutral and not political appointments. Direct accountability to the province is important to maintain proper delivery of the system.

If the government decides to go with appointments, it should be competitive and have criteria. To be included on the tribunal should be people from the areas of legal clinics, tenant advocates and seniors, to keep the balance mixed and fair.

The minister has publicly stated he wants to make it easier for a landlord to evict a tenant. He wants to legislate homelessness. You think it was bad in Toronto last winter with three dead on the streets? In the north there

are no emergency homeless shelters for families or men, and very limited for women and children for situations of abuse. I could not imagine anyone surviving one night of 40 below in 200 inches of snow like we had last January. A study by the Ottawa Metro Advisory Committee on Homelessness and Socially Isolated Persons showed that the number of evictions has increased dramatically since the cuts to social assistance recipients.

With the incentive to the landlord of vacancy decontrol, to charge whatever they want when a tenant moves out to the next tenant, harassment will increase. Although the government's proposal includes increased fines and an anti-harassment unit to deal with the problems, this will not prevent harassment. It is reactive to complaints, not proactive to prevent.

Why are the tenants the only consumers required to pay a deposit that is kept for the life of the tenancy? Even Bell Canada can't charge a deposit like this any more. The difficulty is that the landlords don't pay the interest on the deposit. After a year, if the tenant has proven they are reliable and demonstrated they can pay the rent on time, it should be returned with interest, at the bank rate plus 1%.

Unlawful charges such as premiums, fees, commissions, key deposits and other like charges should still be covered in any new legislation. A solution would be to allow sublet fees to a maximum of \$50, inclusive of all costs.

Posting of information is currently the most ignored requirement of the Landlord and Tenant Act — to post the name and address of the landlord and the summary of part IV of the act. If the landlord does not post this information, the tenant does not pay rent. Anyone can understand this, therefore it is meaningful.

**Security of tenure and conversions:** Giving the landlords the complete freedom to convert apartments to condominiums or be demolished altogether will lower the amount of affordable rental units on the market. Municipalities should still have the right to decide if they need this conversion or not. They know their districts better than someone who is only out for a buck and lives hundreds of miles away. The majority of tenants in a building should agree to conversion, and those who don't want to buy or can't afford to buy should be given the option of staying in their present tenure or given compensation to move.

To maintain the supply of rental stock to low- and middle-income earners, effective non-profit housing programs are needed to be re-enacted and their operating costs maintained.

#### 1250

**Care homes:** This government's proposal will take away the privacy rights of care home residents and provide fast-track evictions for these tenants. It also exempts tenants in rehabilitation accommodation. We are concerned about who decides a transfer is necessary and what happens if a bed in an extended care facility is not available in that area. And when conversions of a care home happen, who ensures that all the residents who need extended care are transferred or provided adequate care?

A local care home in Sault Ste Marie recently did this and no government agency has checked on the transfer or



if the residents still there should be transferred or are receiving adequate care.

A board consisting of caregivers, tenant advocates, families of the residents and community health workers should exist to oversee these transfers and conversions.

**Mobile home and land-lease communities:** Mobile home communities are frequently more available in the north and rural areas. They are often underserved, with inadequate sewage disposal, garbage problems, electrical problems and lack of maintenance of the general areas.

A lot of these parks are known as the public housing of the north. The only difference is that the tenant owns the home but not the land. To allow higher cost pass-through allowances is unreasonable and unfair. The tenants simply cannot afford these charges on top of mortgage payments, rent on the land, maintenance charges, utilities, heating, snow removal and the cost of living out of town and working in town.

These homes and trailers are not recreational vehicles. They have been put on foundations and the wheels have been off for years. Some of the double-wides are the same size as a small bungalow. To allow eviction of the entire structure is illogical, unrealistic and would cause major structural damage to a lot of these homes.

Locally, in one park just inside Sault Ste Marie, the landlord and tenants have been working together trying to get the city to hook them to the city's sewage system. The city's closest outlet is over half a mile away and they figure it would cost hundreds of thousands of dollars to do this. They want the landlord to pay most of the costs or they say they'll condemn the property for inadequate sewage containment. The landlord can't afford it and neither can the tenants, even with cost pass-through. So there it sits for a court to decide if these families are going to become homeless or not. Where will they go? Who picks up the cost of moving the trailers, new foundations, plumbing, electrical and heating? Who compensates those whose trailers cannot be moved? What will be done with the land and the homes left?

Obviously, people who live in downtown Toronto have no idea about mobile home parks, who lives there, the problems in these communities and even what a mobile home really is.

We would prefer that the current land-lease law stands until a committee is formed with government, rural and northern residents of these communities and their landlords so they can work out any changes together.

In conclusion, I'm reminded of the old adage, "If it ain't broke, don't fix it." The major complaint both tenants and landlords had was that the current system's hearing and legal process took too long. We have asked for tribunals for years.

There are 3.2 million tenants in Ontario. We can only see higher rents, less maintenance and laws that no longer protect the tenant. We expect the protections we've had for the last 20 years. Anything less is unacceptable.

When combined with the government's decision to end construction of co-op and non-profit housing, the end of the rent supplement program, the possible sell-off of public housing and the end of community partners funding to United Tenants, the five federations of tenants, the Centre for Equal Rights in Accommodation and the tenant legal

clinics, it is clear that the government of Ontario just does not care about the needs of Ontario residents. But we will remember in the next election.

The following are guidelines we'd like included in any new legislation:

- A published government guideline for rent at or below the rate of inflation.

- A recognition of what's already built into the rents: maintenance.

- Actual rent as the starting point, and above-guideline rents have a cap.

- Tenant advocates across the province.

- Rent decreases permitted, including retroactively.

- Building- and complex-wide reductions.

- An ability to order work to be done.

- Meaningful consequences to landlords who violate their tenants' rights.

- Penalties for landlords who charge for routine maintenance.

- Proactive building inspections.

- A method of ensuring that all tenants have equal access to the system and that all parties have equal access to advocacy.

- An ability to add parties to applications and to allow tenant associations to advocate for all tenants in a complex.

- A multilingual staff on the tribunal.

- Adequate time lines and deadlines for steps in the process.

- Evening hearings as a right.

- Fees not to exceed \$10.

- Patterns of activities taken into account.

- Quick decisions.

- Penalties for retaliatory actions.

- Plain language in all parts of the law.

- Tenants must have the right to stay in their own home without fear of being evicted unfairly or just because their lease has run out.

- Tenants have the right to privacy.

- There must be controls to prevent converting rental housing to condos or other uses.

- All tenants must be included and covered under any tenants' rights legislation.

- Tenants have the right to organize tenant organizations without fear.

- There must be an impartial and fair process for deciding rent increases, evictions and other landlord-tenant issues.

- Limits on cost pass-through charges.

- Protection for all care home residents.

- Return to non-profit and co-op funded housing.

- No sell-off of public housing.

**The Chair:** Thank you for your presentation. We have a minute for statements or a quick question from each caucus, starting with Mr Hardeman.

**Mr Ernie Hardeman (Oxford):** Thank you very much for your presentation. Just a quick question on the de-controlling of units. In Sault Ste Marie in 1995 the allowable rent increases, on average, would have been \$36 per unit. The rental market saw fit to increase it by \$8 as opposed to \$36. Could you explain why that hap-



pened and why the decontrol would cause rent increases beyond that?

**Ms Bailey:** Probably up here it wouldn't be as bad as in Toronto, because up here we have higher unemployment, we have more people on social assistance, and the cuts caused a lot of them to either double up their apartments or move home to their parents. That's why there was such a small increase here last year, because they knew a lot of people, even though it was a medium-priced apartment, couldn't afford it.

**Mr Sergio:** Ms Bailey, you just mentioned the availability of units and the number of vacancies; it's just that people can't afford those empty units that exist on the market. In Toronto we have something like a four- or five-year waiting period. Throughout Ontario I think we have something like 48,000 people waiting to get into affordable housing.

You have just mentioned that we have people out of work. Salaries are coming down. The government has just cut all funding, all non-profit, all co-ops, stuff like that. Developers say they can't build, even with rent control off. Do you think this is the best of times to lift rent controls and for the government to get out of the affordable housing business, or is this a time that the government should really get into the affordable housing business?

**Ms Bailey:** This is the worst time for them to pull rent control and get out of the housing business. There are more people who need public housing and non-profit housing than ever before with —

**The Chair:** Thank you, Mr Sergio.

**Mr Sergio:** You can at least let the deputant finish the answer, Mr Chair.

**The Chair:** If you had made the question just a little shorter, we would have had time for the answer.

**Mr Sergio:** Oh, my goodness. And you've got three cancellations. Be reasonable. You're here to listen to the people.

*Interjection.*

**Mr Sergio:** You guys are ridiculous. You are here to listen to the people. You've got three cancellations. At least you can have the deputant finish the answer.

**The Chair:** Mr Martin.

**Mr Tony Martin (Sault Ste Marie):** I want to thank you for coming before us today and for all the very good suggestions that you've made. For me, this is a bit of a déjà vu experience. I was in Thunder Bay yesterday sitting in on the Employment Standards Act hearings, a package of legislation that's wrapped in paper that suggests this is going to be good for workers and good for tenants when in fact, when we get into it, it really isn't. It's good for developers, it's good for big business, and that's obviously the agenda of this government.

My suggestion there, as it is here, is that if they're not going to do things that are good for the people in this area, perhaps they should have a re-look at the Common Sense Revolution and the promise they made that they would create 750,000 jobs. That's what people want. If people had good jobs, they could afford proper housing and we could do a whole lot of other things in this province that would be positive. Do you have any other

suggestions for the government that they might do besides this kind of obvious doublespeak?

**Ms Bailey:** Yes, we definitely need more jobs up here, and lately they've been cutting all kinds of jobs to the various ministries. The Ministry of Natural Resources is losing a lot of people. They imported Americans to fight fires up here. Let the guys who live here and know the land and have worked summers here fighting fires for 20 years continue to fight their fires.

**The Chair:** Thank you very much. We appreciate your input today.

1300

## SUDBURY COMMUNITY LEGAL CLINIC

**The Chair:** Our next presenter is Terry Copes, staff lawyer for the Sudbury Community Legal Clinic. Good afternoon, sir. Welcome to our committee.

**Mr Terry Copes:** Good afternoon. I welcome the opportunity to speak to the committee. There are quite considerable changes proposed in the discussion paper. While I'd have a lot to say on quite a few of the changes, I'll limit my comments to three particular areas which are of concern to us.

The first involves the proposals for allowing for negotiations in terms of new tenants moving into units which become vacant and also to allow for negotiations between landlords and tenants over tenants "voluntarily" paying and agreeing to extra rent increases, supposedly in return for additional maintenance or improvements to their units.

The whole idea of negotiations is based on a flawed premise of equality of bargaining power. Unfortunately tenants tend to be of lower income, lower educational backgrounds, and also disproportionately recent immigrants and people who have English not as their first language. Under these circumstances a lot of tenants simply do not have or bring to the table the necessary tools to negotiate on an equal basis with their landlords. It's like the average consumer going into the bank and saying, "I want to negotiate service charges," or "I want to negotiate the interest rate on my bank account." It simply is a non-starter. The inequality of bargaining power is there, and to expect the average tenant to be able to approach their landlord on an equal basis and say, "All right, let's sit down and have a serious negotiation about the rent here," just isn't realistic.

Another thing to consider in terms of negotiations, particularly with vacant units and the rent: While we certainly have heard that under the current rent control legislation, for example in Sault Ste Marie, increases have been under the guidelines, that is a situation which may apply where there is a reasonable vacancy rate.

However, in areas where there is a low vacancy rate — I experienced this in Sudbury back in the late 1980s when Sudbury had the lowest vacancy rate in the country, something under 0.1%, even with rent controls we would experience illegal evictions of tenants. The favourite tactic of a landlord was to say he needed the unit for his own use, and after the tenant moved out in good faith the landlord simply re-rented the unit, often at a higher rent. Prior to the existence of the rent registry,



often there was no way for new tenants to check what the previous rent was, thus they had no way of discovering that the rent had been jacked up by an exorbitant amount.

Particularly in low vacancy rate situations a tenant's main concern is finding a place to live. The landlord's concern is trying to maximize his profit from the unit. If a landlord realizes the person will eventually rent the unit, the landlord is in a much better position to hold out for the rent he wants than a tenant out on the street is to hold out for a reasonable rent. In a low vacancy rate situation, the forces acting on the tenant and the landlord are quite different and put additional pressure on the tenant to cave in.

We experience cases where tenants who have low incomes are willing to pay up to 80% of their incomes for a place to live. We notice this particularly after the cuts in social assistance rates; it's quite common to have people coming into our office who are in a real bind because they're getting \$900 a month on social assistance as single mothers and they're paying rent of \$700 a month, leaving \$200 a month to live on for other expenses. If they get hit by any kind of unusual expense, they fall into arrears of rent and end up essentially being evicted as an economic eviction.

Another problem with this negotiation is that it allows and increases incentives for landlords to basically harass their existing tenants out of their units to get them vacant so they can jack up the rent. I'll say a bit more about harassment in a few moments in dealing with proposals for an investigations unit.

The other area where negotiations are proposed in the discussion paper deals with allowing a tenant to voluntarily negotiate with the landlord for an above-guideline increase up to the cap so that improvements can be made to the unit. I must say the discussion paper is unclear here as to whether this would only apply where there was actually something given in return for the above-guideline increase being negotiated. It gives an example of a capital improvement but it doesn't say it would necessarily be limited to those circumstances.

This provides an incentive to landlords not to do maintenance in their buildings, not to do improvements to the units until they can extort some additional money out of their tenants and say: "Yes, you're an existing tenant and it's a rent-controlled unit, but you want your unit painted and we realize it hasn't been painted in 20 years. You want that; you pay for it." Or, "It's hard to estimate how much it costs to pay for it, so we'll just say you pay an additional \$20 a month on top of a guideline increase."

The other thing about this is that it bears no relationship to the actual cost of the improvement and it gets built into the rent forever, not until the improvement is actually paid for but forever on the end. In my brief I give an example we ran into a few years ago where admittedly a tenant did some minor damage to a carpet. The landlord turned around and approached the tenant and said: "Look, I'm going to evict you for damaging the carpet unless you agree to pay for the cost of replacing it. By the way, let's not just repair it; let's replace the carpets in your whole unit. Here, this is what it's going to cost. Start payments."

The tenant actually agreed to this and had been paying for several months before she came to our office seeking legal advice. When she did, we told her simply not to pay. She was very fearful of eviction, but we told her: "Check around. Find out how much carpets cost." She found out that the landlord, who was installing the carpet himself, was charging her about three times the actual replacement cost of the carpet. Feeling very intimidated by the whole process, she finally decided to follow our advice. She stopped paying. The landlord verbally harassed her and threatened to evict her, but probably, having gotten some legal advice himself, decided to proceed no further.

The thing is that other than not paying and going through the fear of running the risk of eviction, the tenant had no method of going back against the landlord for what amounted to quite blatant intimidation. These new proposals basically increase the incentives for landlords to do that kind of thing.

This leads me to the harassment provisions in the discussion paper. It seems to be recognized that there will be additional incentives for landlords to harass tenants. It is suggested in the discussion paper that a solution to this would be some kind of investigation unit. Certainly we welcome any sort of investigation unit and any effective method to prevent landlord harassment of tenants. However, we have many concerns. First of all, how does one define "harassment"? Is simply threatening to evict a tenant, where you have no intention of doing so, harassment? Probably not. At what stage does something become harassment?

The other thing is, to be effective, enforcement has to be quick and very vigorous. In order to do that, there have to be resources put into the system and the system has to be based in most local communities. To simply have a toll-free line where a tenant can phone up and reach someone in Toronto or Hamilton or something isn't going to be very effective for someone living in northern Ontario. There also has to be some provision in place for some kind of restraining order to be applied for and immediately put on a landlord to stop the harassment while the investigation goes on. Otherwise it's going to be too late to be effective for any tenant.

#### 1310

There is mention of increased fines for harassment. As previous speakers have mentioned, the amounts of the fines currently in the act, although they're half of the proposed fines, simply don't matter, because the fines actually being given when these things are taken to court are minimal. Jacking up the level of available fines doesn't do any good if all that will happen is that the court is going to fine a landlord \$250.

One possible solution to this is that a jail term be available in addition to a fine in cases of severe harassment. I would say, in all fairness, that not every case of harassment would justify a jail term, but the availability of that would be a way, first of all, of showing that the government is serious about these provisions and, secondly, would provide more of a disincentive to landlords from engaging in serious harassment.

Another part of the discussion paper mentions the possibility of a tenant being able to apply for a rent



reduction in the case of harassment. Unfortunately, if one really looks at this seriously, it doesn't work particularly well for a couple of reasons. First, if the harassment is severe enough to drive a tenant out of a unit, the tenant isn't paying any more rent for that unit and so can't recover the rent reduction from future rent.

Also, if the harassment is particularly severe, it likely is to only last a short period of time before succeeding in driving the tenant out. So you'd have an anomalous situation where if a rent reduction was available for the period of time of harassment, the more severe it is and the more successful the harassment is the less of a rent reduction would be available to the tenant. Tenants who stick it out or undergo a bearable form of harassment would potentially be able to get more of a rent reduction than those tenants facing severe harassment.

Instead, I would propose that the act provide for a particular and specific application for damages to be awarded to tenants who face harassment. Such damages could include items such as their moving expenses if they are forced to move, including hookup charges for utilities, some damages for the mental anguish the tenant goes through when faced with harassment and, additionally, the availability of punitive damages against the landlord in cases of extreme harassment.

Another thing which should be considered if such a proposal were put into effect is whether such damages would be treated as income for social assistance purposes, because simply to allow tenants to recover such damages and then deduct them from social assistance payments wouldn't provide very much relief for tenants. It should be pointed out that current social assistance legislation does allow, in terms of personal injury, an exemption of \$25,000 in damages for pain and suffering. I would submit that some of the damages which I am proposing are analogous to that kind of situation and perhaps could be covered by those kinds of provisions.

Turning now to the proposals for changing the adjudication system for rent control and landlord and tenant matters, I would suggest that, for one thing, the proposals are very vague; they just say, "We propose changing it into a one-stop or one-window system," and then throw out various different proposals for alternatives. I suggest that merging the two systems of rent control and landlord and tenant matters into one isn't necessarily going to be effective. Rent control issues tend to be matters of calculation; they tend to be very mathematical and simply involve items such as cost pass-through. Landlord and tenant matters, at least the ones which tend to end up in court, deal with adjudication and fact-finding over things such as tenant behaviour, not doing repairs and items which involve more of an adjudicative function than rent control, which is more of an administrative type of function.

Given the dissimilarity of these issues, to design one system to handle both effectively may be very difficult because they don't lend themselves to the same method of handling. Also, an adjudicator who may be very skilled in dealing with fact-finding and what is fair in terms of whether someone should be evicted may not necessarily have the same skills when doing mathematical calculations and figuring out what an allowable rent

increase should be. Thus, given the dissimilarity of the issues, it doesn't necessarily follow that the same tribunal needs to deal with both.

It is also, I think, an underlying assumption of the discussion paper that a tribunal is going to act more efficiently and more quickly than a court. If one looks at the actual reality of the current situation, one would tend to find that landlord and tenant matters being dealt with through the court system probably get resolved a lot more quickly than rent control matters currently handled through a tribunal. I would suggest one of the reasons for this is simply the underresourcing of the rent control system as opposed to the courts. In my experience at least in Sudbury, most landlord and tenant matters, if they have to go to a hearing, can get on to a hearing within two months of being brought into the court system, which for any kind of adjudication system, certainly when you compare it with most tribunals, is fairly quick.

The other part of the way the system works in Sudbury, and I realize that the practice is not consistent from district to district in terms of how courts handle these matters, is that after being served with the papers, the first time in court what's known as a pre-trial occurs before the local registrar of the court. The vast majority of cases we're involved with actually get resolved at that point. That can be as little as four days after the initial papers are served on the landlord. The court registrar actually tries to mediate these matters and, as I said, by and large is fairly successful in doing this. We would welcome the proposals for mediation in the discussion paper. That can be very useful.

If the system is taken out of the courts and put into a tribunal, the tribunal must be independent of government and must have qualified people doing it. The proposal to put it out for tender to the lowest bidder would lead to a dump truck kind of adjudication of these matters and would not necessarily have the necessary quality controls to ensure that justice is being done. Certainly if any tribunal is set up, it should be resourced adequately to provide easy access and relatively quick justice.

**The Chair:** Mr Copes, you've effectively used up your 20 minutes. We appreciate very much your input and your attendance here this afternoon. Thank you.

Our checkout time from the hotel is 2 o'clock. You can leave your bags at the front desk. We will now be recessed until 2:20.

*The committee recessed from 1319 to 1420.*

#### HOUSING RESOURCE CENTRE (SUDBURY)

**The Chair:** Our next presenter is Barry Schmidl, just after his drive in from Sudbury, representing the Housing Resource Centre of Sudbury. Welcome, Mr Schmidl. The floor is yours, sir.

**Mr Barry Schmidl:** Thank you very much. It's a pretty drive in from Sudbury, so that's quite fine. I think you all got copies of my presentation, but I'll make it anyway, since I don't think everyone's a qualified speed-reader.

Thank you for this opportunity to present the views of the Housing Resource Centre (Sudbury) to your committee. I've been informed there's a time limit on my presentation, so I'll attempt to be brief and to the point.



Allow me to begin by introducing the organization I represent. The Housing Resource Centre (Sudbury) is a non-profit organization that provides assistance to people in need of housing. From its beginnings in 1985 until a few months ago, the organization had been called the Crisis Housing Liaison (Sudbury).

The primary service currently offered by the agency is the housing registry program. This program consists of a computerized list of all available rental units in the regional municipality of Sudbury. These listings are given to client families and singles who register with the program. In 1995, a total of 1,161 families and singles looking for housing used this service. These households added up to 2,240 individuals who received services from the organization.

Housing Resource Centre (Sudbury) has also involved itself largely through the efforts of volunteers in advocating for improved affordable housing and tenant protection programs as well as for the interests of lower-income earners in general. This latter concern and a concern for the future of Ontario's tenants in general is what brings us before this committee.

Our concerns with the legislation suggested in the discussion paper are many and profound, and I hope to cover a wide range of topics in a short period of time. I'd suggest that our concerns would best be grouped into the broad areas of affordability and supply of housing, maintenance and standards, and tenant rights, and that's how I'll approach them.

The point of the legislation outlined in the discussion paper is this: Rent control will be dead, period. In everything but name, the proposed legislation will do away with any meaningful rent regulation. While it's true that the rent control guideline and other niceties will still be there, they will only apply to units that are continuously occupied. There are enough holes in the so-called tenant protection package as it relates to rent control that you could use it as a sieve. Let's look at a few.

Landlords can harass tenants into leaving their units so that the rent can be raised between tenants. Although the proposed legislation makes this illegal, there are many forms of harassment that are difficult to prove, and it's unlikely that a government cutting the public service will add an enforcement unit of any meaningful size.

About 20% of tenants move within a given year, thus allowing big rent increases for a sizeable portion of the units in any one year.

All new units created are free from rent control forever.

The rent increase for capital expenditures is to be increased and more things are to be included as allowable. In fact, depending on how the legislation is worded, the tenants may be liable to pay for non-essential items, such as marble lobbies, in their rent increase.

Costs no longer borne by the landlord will not have to be withdrawn from the rent. In other words, you have to keep paying the landlord for the money he spent on new appliances, even after they are paid off.

Any extraordinary costs will be passed on to tenants through rent increases over the cap on capital expenditures. Hydro and municipal tax rate increases would be passed on 100% to tenants, without regard to any limits.

All of these things mean that tenants could go back to the old days of double-digit rent increases, and this is not rent control.

Housing Resource Centre supports a system of rent control that provides tenants with protection from unreasonable rent increases but allows landlords a fair return on their investment with flexibility for some exceptional costs allowed. We support a system that requires that good repair standards be maintained and provides landlords with the cash to meet these obligations. We support a system that helps both landlords and tenants by allowing for a swift and fair appeals mechanism. The proposed legislation does not meet any of these criteria and, indeed, is the antithesis of them.

The government says that legislation outlined in the discussion paper will cause more affordable housing to be built. This will not happen. The minister and the Fair Rental Policy Organization of Ontario, a landlord lobby group, have admitted as much at different times. British Columbia had no rent legislation at all for years and did not see much in the way of private sector affordable housing built. Indeed, the problem is not rent control; the problem is that developers can't build new units for what the average tenant can afford to pay.

I'd like to talk next about landlords and rent control for a moment. It's truly a shame that a law is required because a few landlords are unscrupulous. The vast majority of landlords are decent people who care about their property and are not in business to exploit others.

Unfortunately, society has to have laws to protect us from exploitation by others, whether it be false advertising, child labour or substandard living conditions. Any system of regulation will no doubt work hardships on some people; however, the fact is that existing landlords can make money and generally do, even with the present rent control and other laws. In the March 10, 1996 Toronto Star, real estate broker J.J. Barnicke stated that people who buy an apartment building can expect a return of over 15% on their equity and that apartment buildings had been one of the most important real estate sales areas in the greater Toronto area. Obviously, someone is making money.

The legislation proposed in the discussion paper increases the fines for non-compliance with property standards. This completely ignores the fact that judges normally impose a minimum fine on offenders and that this amount will not change.

The proposed legislation also allows municipalities greater powers to enforce property standards. This sounds wonderful but in fact is a smokescreen. Many municipalities barely enforce standards now. Provincial cuts to municipalities will not cause property standards enforcement to be prosecuted more vigorously as probably fewer inspectors will be working for municipalities as a result of provincial cuts.

In addition, the elimination of the protections under the Rental Housing Protection Act will mean that it will be easier for a landlord to demolish or convert affordable units to condos or to parking lots. Given the present government's stand on social assistance levels and on housing legislation, there are likely to be growing



numbers of former tenants sleeping in both condos and parking lots in the future.

Giving a poor person first right of refusal to buy their unit when it's to be converted to a condominium is like offering the sales clerk receiving minimum wage at a jewellery store first right of refusal over a huge piece of jewellery made out of gold and jewels. They can't afford it, and if they do buy it somehow, they'll be destitute due to loan payments for a very long time.

An attack on tenant rights rounds out our concern with this proposed legislation. Not only is the Harris government pushing tenants out of decent housing through effectively eliminating rent control and allowing buildings to deteriorate because of effective lack of standards enforcement but they are also proposing to eliminate some of the protections the tenants had through this legislation.

Of course, they are also attacking support services for tenants requiring affordable housing through an assault on co-op and non-profit housing and through eliminating funding for groups like ours. We were told a few days ago that we have a 100% funding cut from the province, effective October 31 of this year. As this funding is approximately 90% of our annual budget, it may mean that we'll have to close and at best we'll be able to save a service that is a shadow of its former self.

Some of the rights eroded include increased landlord right to refuse a sublet, and therefore force a rent increase between tenants; removing landlord-tenant matters from the courts and giving them to government-approved adjudicators, thus allowing for potential patronage appointments by government and judgement by unqualified, unindpendent and unsympathetic individuals; reducing the ability of tenants to withhold rent when in a dispute with their landlord.

These and some of the changes to provisions relating to care homes and mobile home parks mean that affordable housing will be a tenuous experience for many.

The Harris government is rushing through the process of changing landlord-tenant law in this province, without either caring or knowing what its impact is going to be on real people, in other words, not on the numbers on spreadsheets. With cuts to social assistance rates, co-op and non-profit housing and wholesale slashing and burning of the social, education and health systems in the province, the provincial government has launched not a war on poverty, but a war on the poor.

The Housing Resource Centre echoes the calls of other groups for a study to be done on the potential impacts of this proposed legislation prior to its introduction into the Legislature. A thorough study of what the human costs will be, including the death toll caused by increased homelessness, should be able to show anyone with a shred of human decency — and, yes, I assume that most politicians have that — that this proposed legislation and the rest of the war on the poor is sheer folly.

I'd like to thank you once again for the opportunity to make this presentation to the committee and I look forward to your questions.

**The Chair:** Thank you, Mr Schmidl. We have about three minutes per caucus for questions, beginning with the Liberals.

1430

**Mr Curling:** Thank you for your presentation. Some of the concerns that people have — and I notice in your paper too you talk about legislation and discussion — people confuse whether this is a consultation process or legislation. You're not making a mistake because most people come in and say the process has already begun. I really don't regard this as a consultation because changes have started to happen before they've even finished listening. The building code has changed, and some of the changes are needed of course, but it's said that we should all get involved.

There are some inadequacies too because of not consulting widely enough in the health area and other areas so that we can have better legislation. I don't feel it's going to be great legislation and I don't intend to put words in your mouth when I tell you how I feel, but the way you're going it seems to me you don't feel that way either.

In considering the non-profit housing sector, what kind of impact do you feel that the cancellation of the non-profit housing will have — housing that will not be produced by the private sector — especially on lower-income people? What kind of impact do you think this will have?

**Mr Schmidl:** Well, effectively, I can only speak for Sudbury here directly. A recent study showed that we had a 6% vacancy rate. Personally, I take issue with that exact figure, but I'll accept it for the moment. From what we've seen, most of that 6% vacancy rate is not at the lower end of the market. While certainly there's a little bit more available at the lower end of the market since our vacancy rate was 0.1% a few years ago, some people with lower incomes still have a difficult time finding a decent place to live for what they can afford, and the impact has just got worse since the cuts in social assistance. With no new non-profit or co-op housing being built, there's nothing there to take up the increase in people who are finding themselves at the low end of the income spectrum who maybe weren't there a couple of years ago.

**Mr Curling:** Let me share with you something we heard in Thunder Bay where the vacancy rate is much higher. The waiting list for people who need affordable housing is greater. In other words, you're saying it doesn't matter what the vacancy rate is, for those who want access to affordable housing the waiting list is much longer so they have not been served. We can be fooled by the fact that we see a vacancy rate, but it's an average stat that is lumping in those people who need access to affordable housing. I just thought I'd share that with you because you expressed a bit of that in your presentation, saying that is also a concern in Thunder Bay.

**Mr Schmidl:** My experience would bear that out. I'm a volunteer with Housing Resource Centre but I'm employed with a housing cooperative. If you phone me today saying, "I want to apply for a one-bedroom or a two-bedroom subsidized unit because my income is" — fill in the blank — "around \$10,000" or maybe less, I would say: "Okay, put in your application. Don't expect to find a place here for a couple of years, though." Honestly, most of the people who disappear off our list



are not people whom we've housed, they're people who have been forced to move and haven't thought to inform me what their new address is, so we can't find them. It's not because we're able to accommodate them. They've just gone on to somebody else's waiting list, I'm sure.

**Mr Wildman:** We've seen significant changes over the last couple of years since the election. You've mentioned some of them, such as the cuts in social assistance, the decision to stop any construction of non-profit, low-income, rent-geared-to-income housing. Those took place without any consultation. They were just announced. Whether this is a true consultation or not, this is a discussion paper. The legislation has at least not been made public and, hopefully, has not been yet prepared. What do you hope will come from these hearings?

**Mr Schmidl:** I suppose I have two answers. There's the cynical Barry Schmidl and there's the idealistic Barry Schmidl who are both going to have to answer your question. The idealistic one hopes that the government side of the Legislature actually hears what people are saying and will do a serious study of what the impact of what is being discussed will actually be on people. I'm afraid the cynical Barry hopes that this isn't an exercise and everyone just saying what they think while the legislation is already there.

As I said, I think all politicians basically have at least a shred of human decency, so I'm assuming this isn't an exercise just to appease public opinion or something like that. What I'm hoping will come out of this is that the government side of the Legislature will understand that before some of the concepts behind this discussion paper are put into legislation, they should be studied sufficiently to understand what the impact will be. I feel that if that's done, the concepts behind the discussion paper will be changed.

**Mr Wildman:** I guess you've answered my second question as well. My first question was, what do you hope will come from this? The second was, what do you think is going to come from it? Whether it's an idealistic view or a cynical one or an idealistic view or a realistic one is, I guess, a question for a nominative discussion.

**Mr Maves:** Thank you for your presentation today. One thing that you mentioned early on in your paper was that rent control will be dead. As you know, we have rent control, decontrol of the vacant unit and then rent control again. The insinuation is that the landlord will just keep kicking people out so he can keep raising up rents. It's logical that the worse thing that could happen to a landlord is to have an empty building, have no income coming in. Why do you see a continual pattern of eviction when the landlord's worst nightmare is an empty building?

**Mr Schmidl:** That's true. Although particularly in markets where the vacancy rate is lower as opposed to places where it's higher, it's quite easy to fill a vacant unit. Basically what you have here is, we will charge what the market will bear. Although negotiation is mentioned, in a tight housing market — and believe me, I'm an expert on that. I lived in Sudbury when our vacancy rate was 0.1% for longer than I would care to think about. When you're in a tight vacancy situation like that, there's no such thing as negotiation. The landlord

can walk away from the table because he knows he's got X other people waiting to move in. He wouldn't have to necessarily kick somebody out every six months or harass them into leaving every six months or whatever if the first time he raises the rent he gets it right as far as he's concerned.

**Mr Maves:** Yes, and then rent control is reapplied, though, for the lifetime of that occupant.

**Mr Schmidl:** Except that as far as this goes, the system that's outlined in the discussion paper, it's kind of like seatbelts: If you're not in the car, the seatbelt has no point. If you're not in the unit, there's nothing holding back the rent. When you're in, that's fine, but what happens when you get out in the parking lot? The fact that your landlord's got a seatbelt on doesn't mean it's going to be any better for you when he runs you down.

**Mr Maves:** Part of the problem here with this argument about big rent increases is that every year in the last five years in Sault Ste Marie the statistics we have are that the average rent increase has been below the guideline. In fact, one gentleman was here today and 90% of his units are being rented below the legal maximum. We're finding that everywhere we go. They could be renting these units out legally for higher rates right now, but they can't because the market won't allow it. Why would the market all of a sudden allow it under the new conditions?

**Mr Schmidl:** It won't necessarily allow it in every market, but every market changes from time to time. As soon as the vacancy rate goes down in a given market, the rents are going to start going up and they're going to go up without much control on them.

**The Chair:** Thank you, Mr Schmidl. We appreciate your input this afternoon. Have a nice drive back to Sudbury.

1440

#### SAULT STE MARIE AND DISTRICT SOCIAL JUSTICE COALITION

**The Chair:** Our next presenter is Lisa Kisch from the Sault Ste Marie and District Social Justice Coalition. Good afternoon. Welcome to our committee. The floor is yours.

**Ms Lisa Kisch:** Good afternoon. I'm really pleased to be here today. This submission is made on behalf of the Sault Ste Marie and District Social Justice Coalition, which is based in Sault Ste Marie. We've been in existence for two and a half years and comprise approximately 200 individuals, including both grass-roots community groups and individuals. The bulk of our membership is low-income individual women and students and the focus of our work is on poverty issues and issues affecting women and children.

After this committee hearing, most of us will be going back to our homes. Some of us may be living in a residence that falls within our budget and some of us may be living in a safe, secure and modern apartment building that has bright lights at its entrance and recreation programs for seniors and children. Some of us may be living in public housing units like the one I'm living at on Adrian Drive in the Sault, while others may be living



in co-ops or non-profit housing units. Maybe some of us are homeowners. Sadly, some of us may also be returning home today to apartments or houses that don't even meet the basic standards of decency and human need. However, all of us here today will be affected by the proposed changes to current laws regarding tenants. In fact, with the repeal of existing tenants rights legislation, a year from now many of us could be facing rent increases, less enforcement of repairs and maintenance, harassment and possibly even eviction from our homes.

I'm here today because I'm one of the 3.5 million tenants in Ontario who will be affected by the proposed changes. I want to speak out on behalf of all the women, men and children in this city, this district, this province, who will be further discriminated against and marginalized if this government moves ahead with its proposed tenants protection legislation.

Who are these people? They are my great aunt, my cousins, my uncle in a care home, the many friends and people I've met through my volunteer work with single mothers, the many friends and people I've come to know at Algoma University, my neighbours in the public housing unit where I live and all the other single parents, families on social assistance, the disabled, people of colour and our first nations people. These are the people whose faces are absent at this committee meeting and who have the most to lose if proposed changes in this discussion paper are followed through.

I also want to speak out on behalf of all the women and children who have had their lives torn apart because of family violence. Many of them have had to flee their homes and have then had a difficult time trying to find safe and affordable housing. I was one of them. Four years ago I arrived in this city after leaving an abusive marriage and spending six weeks in a women's shelter. I arrived in the Sault with my four children, \$60 in my pocket and nowhere to live. I searched all over for decent and affordable housing and I faced waiting lists at all of the co-ops, non-profits and public housing units. I also tried the private rental market and I had a multitude of landlords who wouldn't even let me look at their rental units when they found out how many children I had or when they found out that I was now on social assistance.

At the time I was unaware that I could file a formal complaint about this type of discrimination. Therefore, out of desperation I took a substandard rental unit that did not meet my family's needs. The rent and heat cost were extremely high and I had a difficult time trying to feed and clothe my children. I spent most of my time trying to survive. Further, repairs that were promised by my landlord were never done on the house and my children and I lived in constant danger. I'm not going to get into what happened in that house, but it's fairly typical things that were just not repaired.

I didn't know this at the time, but all of these problems are common and everyday occurrences for many poor women and children trying to survive on their own in this province. Fortunately, I was able to receive help and information from the Ontario Ministry of Housing rent review services and they were able to provide a referral to the Residential Rental Standards Board in the Sault. The municipality became involved and inspected the

building and they agreed that it was dangerous and in dire need of repairs. They began sending letters to my landlord and they were preparing further action.

I would like to make note at this point in my presentation that I am concerned about the proposal in the discussion paper to have the municipalities administer and enforce the repairs and maintenance alone, without the help of the province. I believe that this is not feasible, because the municipalities are already financially stressed due to the loss of provincial funding and it's going to be extremely difficult for them to enforce the rules and regulations without the financial means to enforce them. When faced with budget decisions regarding public transportation or sewers versus a single mother living in a dilapidated rental unit, I don't have to think very hard about what budget issue will receive the most priority from the municipality.

To get back to my own story, I never did get my rental unit repaired or up to standards. However, I did receive a letter from the Ontario district housing authority informing me that a public housing unit had become available. I had finally obtained decent affordable housing and, to be honest, it felt like I'd won a million dollars.

My life has not been the same since. With our basic safety and housing needs met, my children and I have thrived. I'm happy to say that I'm halfway through a four-year degree program at Algoma University and all of my children are doing very well in school.

I believe that every woman, man and child in this province deserves the same chances I had. I know I wouldn't even be here today speaking to you if I could not have accessed a women's shelter for the six weeks or if I hadn't been able to obtain decent affordable housing. I know at first hand that decent housing is central to an individual and family's wellbeing. Therefore, the government needs to think long and hard before proposing changes that will further eradicate tenants' rights and must instead move towards enforcing the current legislation.

I have shared my personal story with you because I want you to see how real lives and real families are affected by any change in government policies. I'm here because many other tenants in Ontario have not had the educational or the housing opportunities that I've had and because many tenants are not aware of their rights. I need to speak out on behalf of them.

There are other voices that are not present in this committee hearing and they are the voices of the one in five children in Ontario who live in poverty. I thought of these children last night as I took a walk in the Sault. I couldn't help but be saddened by what I saw. Some of the homes that I walked past were fresh and new with paint and they had beautiful coloured flowers dancing from the hanging pots. You could tell that children lived in these homes as the backyards were filled with bright Little Tikes toys, pink doll carriages and sandboxes.

Then I ventured into a poorer neighbourhood where all the old houses stood close together with their peeling paint and broken doors. These homes tell a different story. Gone are the dancing flowers and the bright new toys and instead there are broken bicycles and litter tossed about on the dishevelled lawns. I couldn't help but



think there is something intrinsically wrong with a government and a society that remains incapable of providing adequate and safe housing for all — and I repeat all — of its children. I have to wonder why we can live in one of the richest countries in the world and yet some of our children can enjoy the security of a toasty warm house in the dead cold of winter while others are living in unsafe, expensive and substandard housing like the ones I walked by last night and the one I had lived in before.

1450

Like many poor women with children in Ontario, I am disheartened at the politics of rich against poor and of those who have against those who have not. This war is taking its toll and each day is a battle for those of us who are marginalized.

First it was cuts to social assistance, with the result of most poor families using more of their food money to pay the rent. I know that for a fact because I have many friends who are doing that. Then it was direct cuts to programs like the Little Beavers at our local Indian Friendship Centre and the end of funding at our local women's centre, Phoenix Rising. Next was the 20% increase in tuition fees at the university, coupled with the loss of social assistance and its drug and dental card for any single parents trying to better themselves through post-secondary education.

Then, to add insult to injury, the provincial government is now bowing to the landlords of this province and proposing to get rid of rent control; to sell off public housing, my house where I live with my four children; to get rid of social housing, where many of my friends live; and to give greater powers to overburdened and under-financed municipalities for the enforcement of repairs and maintenance. The most cowardly and coldhearted part of these proposed changes to the legislation is the government's strategy of bringing in these new laws before tenants even know what's happening to them.

I would just like to ask this committee to think long and hard before it recommends that the government proceed full steam ahead with changes to any areas of the Landlord and Tenant Act, in particular the proposed removal of rent controls on vacant units. After all, these changes to the law will affect real people and real lives in a significant way. You just need to ask me and my four children, because we know too well. Thank you.

**Mr Wildman:** Thank you very much for your presentation. It really hits home because of the fact that you're dealing with real experiences that you can relate about your own family and families that you know.

Without getting into too much about the personal history, what do you think would be your situation now if you had gone through the difficulties you and your children experienced this year rather than two or three years ago?

**Ms Kisch:** First of all, I would never have left my husband. In a climate like this, I never would.

**Mr Wildman:** How do you respond to those who might say that they are in favour of the family and that might be a good thing?

**Ms Kisch:** I guess if "family" means a man taking a gun to a woman's head and keeping her there, if that's

the kind of family that we want, with men having power over women, I would say it's a pretty sick society.

**Mr Wildman:** In terms of your own housing situation, it's been suggested that the reason there's a lack of affordable housing in Ontario is not because of decisions to stop non-profit construction or low-rental housing construction but rather simply that the rent control system has discouraged developers from building affordable housing.

**Ms Kisch:** But the housing the developers want to build will be at the more expensive end, so I don't really think that's what the problem is.

**Mr Wildman:** So you don't believe that removing rent control from vacant units will encourage developers to build new units that will be affordable.

**Ms Kisch:** No, I don't. I believe that by removing the rent control, we're going to be trapped in our homes. We already feel that way. Once you leave, the next place you rent will be a lot higher, so many of us feel that we're going to be trapped now.

**Mr Stewart:** Thank you for your presentation. I've got two questions. First of all, these last few days I keep hearing the word "substandard." Yesterday "substandard" meant that for a mother with two children, it was substandard if she didn't get a three-bedroom home. I guess what I need to know is what your description of substandard is, and if substandard means broken bikes and litter tossed on the lawn, is that the landlord's problem? Surely then we must get into a life-skills program of education, because surely we have enough responsibility in ourselves to go out and lean the bike up against the house or pick up some of the litter. Have we gone so far that we don't have any responsibility any more within ourselves? And again, what is that "substandard"? Where do we stop on "substandard" descriptions?

**Ms Kisch:** Have you ever been in any of the homes that have the bicycles thrown on the front lawn?

**Mr Stewart:** Yes, ma'am, I have.

**Ms Kisch:** Substandard is the house I lived in that had no banisters on very steep stairs; no covering on the stairs; bare wood, splinters, nails that came up; holes between the floors so that my four-year-old's foot could fall down into the dining room; plugged sinks; a fridge and stove that when I rented the place they changed to ones that had absolutely no shelving unit. It was a big fridge; you threw everything in. There was a stove that didn't work, a backyard that was full of dangerous garbage that was supposed to be removed by the landlord and wasn't. I could just go on and on. My children had socks that always had holes because of all the nails coming up; stairs going down to the basement without any kind of railing at all, that literally just fell down.

I've been in many, many homes. As I said, I work with single mothers, or volunteer my time, and it seems to me that many of them live in substandard units. It's not about having a three-bedroom; it's about a roof over your head, which is a basic human need.

**Mr Curling:** Ms Kisch, you have brought home what many people have stated exactly and you have said it so well. I think it's an excellent presentation.

One of the things about homelessness in our country is that we hope people like yourself and what you saw will



just go away. It's easier. We wouldn't have to deal with it. It's much easier. Or if we could slap them around a bit and teach them some manners, to pick up their paper, pick up the garbage that landlords have left or other people have left, pick up the garbage that other governments are not able to enforce because the people have been subjected to abuse by other people of power and people of money. If you folks would just go away, that would help.

Tell me, how can we get the message over to those who make the laws, those who would give the money to enforce that these things must be done? There are people in Toronto who have organized rallies to bring it home, and they said these are just interest groups. Any suggestion at all, or do we just keep on with the struggle?

**Ms Kisch:** I think we just need to keep on with the struggle. I've learned a lot. At one point in my life I would have said that these people need to clean up their front lawns. I was there. But I've worn the shoes now and I'm glad that I'm wearing these shoes, because I don't have to sit up high and look down at people any more. We're all people, and government has to realize that it is representing all people, not just the interests of those in power.

Hopefully with all of these rallies — I have never been politically active, and me, my friends, we've said this is enough. I'm just hoping that at the end of four years, enough people who are marginalized, and women, and my children who I'm teaching we don't have to be treated like this, that we're people and we all deserve respect — I'm hoping that in four years, or a couple of years from now, the NDP will be back in power.

**Mr Curling:** No, no.

**Ms Kisch:** Sorry.

**Mr Curling:** You were doing so well. Well, it's an improvement.

**Interjection:** Good question, Alvin.

**The Chair:** Ms Kisch, we do appreciate your input into our process and sharing your experiences with us. Thank you very much.

We now have a regularly scheduled recess until 4 pm.

**Mr Wildman:** Mr Chair, just before we leave, I want to thank you for your patience and I just would —

*Failure of sound system.*

**Mr Wildman:** — advise lower-income women that the reason that society is going to hell is because they don't get out and work and they stay at home on social assistance, and then tell middle-class women that society's going to hell because they do get out and work and don't stay at home to look after their children.

*The committee recessed from 1500 to 1540.*

#### MARJORY CURRY

**The Chair:** Welcome back. We've had a special request from a young lady by the name of Marjory Curry, who has sat through most of our deliberations this morning, to have an opportunity to talk to us. The committee has agreed to come back a few minutes early and let Marjory sit and make her presentation to us. Marjory, have a seat there. Welcome to our committee. We're going to give you the customary 20 minutes and

you can make a presentation and then we'll kind of open it up for questions among the different parties. We'll be starting with the government.

**Miss Marjory Curry:** So far we've heard about housing. We've heard about different apartments, condos, everything. Haven't you ever thought about handicapped people who have been in institutions, who have been going through the foster parents plan, who have been in group homes? I'm in Community Living Algoma. I'm on my trial period right now and I'm already from Community Living Huntsville. This is a big step for me because I am really pleased for myself right now. If you want to know, I think Mike Harris is putting a lot of people from institutions out, and where are they going to go? They're going to go to the Ontario Association for Community Living to live. But where is the money going to come from? From Mike Harris's money, because they won't have the money because they've been isolated and everything. What do you think they should live on? Not on bread alone and water.

Think about how the institution people are going to put up with this, especially if they have to live on their own in SIL. That stands for supported independent living, and that's where I am right now: on my own. I've had it, this part, before, and I'm going to tell you how I know it feels to me, because I've been through this for all my life. Since six years of age and up I've been in foster homes. I've also been in one group home in Orillia. When you see the Packet and Times, those papers there, I was in Orillia in the group home there from the family and children's services in Muskoka. So I know where I'm coming from.

These people are not funny. These people do not know how hard I'm struggling to try and teach you guys something. You guys might not know how hard it has been for them, to try and point to them where they are going to go in the future when they reach 18, especially in the family and children's services without their family because they didn't have enough money to support them or they didn't have the skill to teach them because their parents didn't have the schooling or anything. Think about it, the problems they had. This is what I wanted to mention to you guys.

When I was living in a group home in Huntsville, Ontario, I put all my strengths and rights to live on my own after high school. I lived at 112 Main Street West, and it's a basement apartment, for three years, from 1991 to 1994. In the wintertime I've had laryngitis. I couldn't speak, period. You would have to read my sign language or my lips, and if you couldn't read that at all, I would have to write it on a piece of paper, so it was hard to tell. I was in apartment 6 and my neighbour across from me was in apartment 5. Her name is Julie Hilluse. We'd been receiving snow through the doors, like the door that you come into, from those two doors, and then plus our own doors of our apartments, living room, kitchen, bathroom and bedroom windows. We both never received any heat in the apartment, except for 1 to 4, where they had the main floor, and then the next floor higher.

We went through apartment windows — like, they never received any snow going through. How hard were they? They took it easy for the amount that they had to



pay. But us, Julie Hilluse and I, we went through a struggle trying to tell someone to behave. Our landlord's name is Bob Gegoskie. I hope it's highlighted to you guys because that's his name. Every time when Julie Hilluse and I asked him to fix the basement apartment, he said, "Fix it yourself" — just strictly acting kind of cruel to us. He thinks he owns everything but he doesn't give us the proper utilities renting. I don't think he should be on the board of the landlord section if he's going to act like that.

Julie was working evening shifts for Selfmate company and I did just the vocational alternative program in the daytime but still I had no skills in caulking the bathtub or any other type of construction work, so how could I handle it? Julie and I had to pay \$470 per month. I can understand that for spring, summer and fall, but when it got to winter season then I thought we should only pay \$50 due to no heat or insulation. The walls weren't insulated from the windows and all that, including the doors weren't insulated. It was just like water coming in even through some of the spring season, only especially in the wintertime season, like I said.

Julie is getting a regular paycheque from her work and I'm getting a Family Benefits Act pension. You heard about it from before. One of the gentlemen was speaking about welfare. That's a Family Benefits Act pension and that is a welfare-type that you've got to know. We don't get enough money from the FBA every month, so Julie never received very much money that she could pay for everything that's in the apartment. So where do you think we should go? If the institution is going to have to put all these other people in here, these situations, where are they going to land from their area? Are they going to land where they're so cold or are they going to have to go outside? Think about it. Where are they going to stand?

Mike Harris doesn't know nothing about this, but he's going to have to hear it from my words because this is politics, I'm saying, because he doesn't know what harassment is and he's doing harassment to them if he doesn't think how other people are going to live. Why don't people think before they say things? Half of the time they don't even think of institutions. They don't think about people who've been in group homes, foster homes or any of that. This is a time that you need to think about it, because where are they going to get the money if Mike Harris doesn't give them the money? Already this year we're starting to pay \$2 for our medication fee. When is the institution going to start paying their \$2 if they have to take medication, and how are they going to manage to do it on their own if they've been having staff pouring it into their mouth and all that? How are they going to start to learn to do it on their own if they are in supported independent living where they have to do it independent? Where are they going to stand?

You've got to think about this because no one is going to put any problems to them. You're going to hear, Mike Harris, about this, because Mike Harris is putting a lot of problems towards the institution people and other people in this area who do not know about this. But I can guarantee you guys that the Ontario Association for

Community Living is going to stand up for me because I am speaking for them as top of the people from the institutions, and I mean it. It is hard. Mike Harris doesn't know a thing.

Please think tight. Think about the handicapped people who do not know any skills. They have to learn some way. They've got to have education some way. You just cannot have them suffer. Give them some chance. I went through high school. I know what it's like. And I'm looking forward to going to college in the Sault. I'm looking forward all the way. I'm not a quitter. People might think you can be a quitter, but I am not a quitter. I am a stand-up person and I'm a self-advocate for the Ontario Association of Community Living.

1550

We are serving already from the Ontario Association of Community Living 110 different areas in the province of Ontario, and by the time the institution comes we might serve about 50% to 70% more areas surrounding the province of Ontario due to the institution. And where is the staff going to come from? The people who have been in institutions for all their life, almost, working there, because we won't have the staff to hold all the clients. So you guys think of it. Plus when they close those down they're going to be surrounding the other areas too.

Think about the institution and all of them, because you really have to think about them. You cannot only think of families and stuff too, but just think of the other people who have been outside of that, because they need the care. Think. It means a lot when you're thinking of how people will put up with all these stupid behaviours by landlords sooner or later.

I got to admit this too. There was one gentleman who is from the government. He was in an institution in Peterborough. He stood up from when we had — I think it was Bob from Queen's Park, and we were doing no more cuts at that time. Anyway, he stuck up for everybody from Community Living Ontario, and also he even stuck up for all the institutions and them. Think of it. That gentleman was really smart to help us. And now it was my time from the Ontario Association of Community Living to stick up for them on top of us, because I've been through this and I know it's tough. So think.

**The Chair:** Okay. Do you feel comfortable maybe answering a couple of questions?

**Miss Curry:** You bet.

**Mr Toni Skarica (Wentworth North):** You said that you were in a group home when you were a young girl?

**Miss Curry:** Yes. From when I was 10 to 15. And that was the Shalom Children's Residence at 105 Beverley Street in Orillia.

**Mr Skarica:** All right. So you've really never had a real family life like a lot of people have. Isn't that right?

**Miss Curry:** That's right. It was similar to like an institution, I've got to admit that, but I was transferred from one home to another for almost two to five years. That's how it was towards me.

**Mr Skarica:** I understand that you've struggled for a long time, but you're getting your life pretty well on track now. Is that right?



**Miss Curry:** That's right. I'm hoping to move from Huntsville Community Living into Algoma right now so that I can go to college, because I've been waiting since 1991 to look for a college that would suit my needs.

**Mr Skarica:** How come it's taken you this long to go into a college?

**Miss Curry:** For one reason, you know when you have your schools you have the guidance counsellor. Well, my guidance counsellor didn't think about college in the north. They just thought Georgian College in Orillia and Barrie and all them, but they never thought like North Bay or Sault Ste Marie or none of them. They said none of them would meet my needs. Last year when I was coming up here to visit my pen-pal David, he told me about a college that has an integration course for slow learners. So I went to it and I spoke to a gentleman named Gary, and he gave me a package and everything and now I'm just getting settled to see if I can get into it the following fall if I get to stay.

**Mr Skarica:** This is the last thing I have to say to you, but I just want to compliment you because it's obvious that you've grown and I think you're going to do really well in college. It took a lot of courage for you to come here today.

**Miss Curry:** Well, look, I started going to family and children's services when I was six years old, and now, April 19 of this year, I reached 27. So think of it. Look how far of a struggle I went through. But it shows you how much confidence I do have.

**The Chair:** Thank you, Mr Skarica. Miss Curry, just quickly, you made some reference to sign language. Do you do sign language?

**Miss Curry:** Yes.

**The Chair:** You're one up on most of us. Mr Curling.

**Mr Curling:** Thank you for your presentation. Of course, we all listened. I should let you know too that the role of government is very, very tough. Even though I'm not on the government side in the sense of making laws, I can help to make laws, and there is no intention at all of any government to put anyone like you on the street to be living in the cold.

What you have done is raise some of the issues that we all have to look at, to be sensitive to, to know that people in community living need special attention. What you have done is you have brought this much more to light, saying that you have lived it, you have passed through that, you have courage. I'm telling you, there are many people who come here to present to us all and I feel very frightened about it. You did an excellent job and I want to commend you for that. I want to wish you all the best in your studies and as you go on to do other studies in life.

**Miss Curry:** Well, the head office is in Toronto, to tell you that, the head office for the Ontario association, the board. So if it goes through them and the people in Toronto hear it's from me, I hope that Fred and Richard and all them on the board get to hear this and it makes them think that, "Hey, someone that's a self-advocate is keeping their dreams alive, showing them that they can because they stuck up for us."

**Mr Marchese:** Marjory, one of the messages you're sending governments is that some people in life are not

all so fortunate and that because of a variety of reasons some of us need ongoing assistance until we get up on our feet. Is that correct?

**Miss Curry:** That's correct; 100%.

**Mr Marchese:** You're also saying that governments need to keep on funding the various programs that assist people like you, otherwise cuts make it impossible for you to stand up on your own two feet. Is that correct?

**Miss Curry:** That's right, because very shortly if they don't start watching their cuts on the budget, they're going to also cut back on the dental fees that you get from medical and dental forms and all that. Your doctors are going to have to be paid and everything. That's going to cost a bundle of money, especially for people who are just going out of institutions, going into these places and need more care. So why don't they think about them first before they go any further by cutting anything, especially money-wise I'm saying too.

**Mr Marchese:** Some of the cuts that you're already experiencing are hurting, and you're saying if the cuts get any deeper it's going to get worse?

**Miss Curry:** You've got it; 100%.

**The Chair:** Thank you, Marjory, for taking the time and being interested enough. Just for your information, everything that's said here is recorded and it becomes part of what we call Hansard, which is the transcript of official dealings of the government. So everything that you've said is recorded for history. If you would leave your address with the clerk, I'll make sure that you get a copy of that.

**Miss Curry:** I will have two addresses. So if you want me to give you the one from Huntsville, I'll give you that one. Plus if I do stay permanently in the Sault, I'll give you my previous one right now.

**The Chair:** Okay. I'll allow the clerk to get that from you, and we'll make sure you get a copy of that so you can show people exactly what you said to us and how well you handled yourself.

**Miss Curry:** Yes, but also make sure all this information that I said goes to Toronto because I want Mike Harris to hear it, plus I want the whole head office from the Ontario Association of Community Living that's been giving the conference each year like in Toronto that I've been to — 1994 was in Windsor and so forth. I was also in Niagara Falls, and I've been in Mississauga. And these people from the head office area, where they make these conferences, they will know me. If they hear my voice saying this, they will just jump up and probably cheer for me or more.

**The Chair:** Thank you very much.

1600

#### SAULT STE MARIE HOMEBUILDERS ASSOCIATION

**The Chair:** Our next presenter represents the Sault Ste Marie Homebuilders Association, Glen MacIntyre, Reg Martin and Sam Pringle. Obviously, not everybody showed up.

**Mr Glen MacIntyre:** It's okay, I've done this alone.

**The Chair:** The floor is yours.

**Mr MacIntyre:** Thank you. I believe you have a copy of the presentation that we have presented before you.



My name is Glen MacIntyre and I'm the OHBA representative for the Sault Ste Marie Homebuilders Association. The Sault Ste Marie Homebuilders Association was formed in 1958 and represents over 35 members. Our membership is composed of builders, land developers, renovators, apartment owners, manufacturers and suppliers, financial institutions and real estate and trade contractors.

The Sault Ste Marie Homebuilders Association is a member in good standing of the Ontario Home Builders' Association and the Canadian Home Builders' Association and supports the comments made by the OHBA to the standing committee on August 20.

In addition to meeting the demands of people who have chosen to purchase their homes, our members have tried to address the needs of those who wish to rent. Whether through construction or property management, we have endeavoured to provide the best-quality rental accommodations possible. We appreciate the opportunity to address the committee on this important issue.

We are pleased that the government has recognized that the rent control system is in need of a major overhaul. The introduction of rent controls in 1975 and the tightening of rental legislation, particularly over the past 10 years, have severely diminished the incentive for builders and developers to expand their stock of rental housing in Ontario.

In our community 96 units of private rental were built in 1995. As you see in the list below, in the period from 1981 to 1993, there were a total of 994 units of non-profit government housing built in Sault Ste Marie. From the period 1971 to 1975, there were 819 rental units built before the rent control system came in. Due to the lack of rental units in Sault Ste Marie, from 1976 to 1980, 1,879 units were built. Rent control had no effect. From 1981 to 1990, there were 1,624 units built, averaging 162 units a year. Rent control didn't have an effect on that because of the marginal amount of apartments available in Sault Ste Marie. From 1990 to 1995, there were 520 non-profit units built and 179 private units built. These figures are from the Sault Ste Marie building department.

Rent control has distorted some of the Ontario housing market. The vacancy rate in Sault Ste Marie is only 2.8% and there are no private rental units being built at this moment. In most communities in the United States where healthy construction of rental units is by private interests, even when the vacancy rate is 8% and 10%, it is clearly evident in the American market this has had no effect. It is clear the rent control regime has been a major contributing factor to suppressing private rental units.

Certainly there is a critical element for there to be investment in new rental buildings. We are confident that the government's proposals are going in the right direction to restore balance in the landlord-tenant relationship and encourage new supply. The removal of all rent control provisions for newly constructed units is helpful to our industry but does not provide the certainty which is required for investors that controls could be re-established at a later date.

Repealing the Rental Housing Protection Act: Repeal of the Rental Housing Protection Act will act as an incentive to improve existing stocks through conversion

to other more appropriate uses. A building owner has been very restricted under the rental housing act and could not make decisions on renovations, recycling or alternative use of the buildings in their portfolios. The RHPA ignored the natural life cycle of buildings, and extensive capital repairs are not possible because of the capital cost pass-through restrictions. The proposals will allow tenants to purchase units in the case of conversion. We believe that if the majority of the tenants are supportive of conversion, then the owner should be allowed to proceed in a timely manner.

Development charges: We are very fortunate in our community that development charges on apartments or condominiums are zero at the moment. It should encourage builders and developers to build, but it has not. The Ontario Home Builders' Association has communicated with the government Red Tape Review Commission that the regulatory environment in residential construction is stifling and adding unnecessary costs. For example, the energy code, energy-efficient standards, add approximately \$1,000 to the construction costs of a typical two-bedroom apartment here.

The industry has made a number of recommendations which are contained in Lampert's report: consolidation of responsibilities governing the design, construction and safe use of buildings under one ministry, for example, the building code, fire code, technical standards act and even health and safety; minimize enforcement overlap; reduce overly restrictive site planning control requirements; allow greater discretion on the part of officials with regard to alternative design. Sprinkling requirements would not be cost-effective and would be a detriment to our industry.

Our industry has been working with the Ontario building code in trying to get back to basic construction needs. As a specific example — taxation on rental housing — sales tax in Ontario, combined with the federal GST, has resulted in a level of tax on building materials which is 2% higher today than in the mid-1970s. Materials assume about 30% to 40% of the value of a rental project. With the combined provincial sales tax since 1991, we have a combination of 17%.

A major change occurred when the federal sales tax was replaced by the GST in 1991. The 7% GST is now payable on the full value of new rental units. For new home ownership, the GST paid is approximately 4.5% for houses priced up to \$350,000.

Landlords must pay GST on input purchases to operate their projects: management fees, maintenance contracts, supplies etc. Most of these operating inputs are not subject to federal sales tax. Unlike other businesses, residential landlords do not collect GST. The GST must be borrowed by the landlord and the extra cost is not applied as a credit against GST collected. On the other hand, commercial and industrial landlords receive credit for the GST they incur on inputs.

A further threat to the entire new housing industry is the possibility of harmonization of provincial taxes with the GST. We commend the provincial government for the stance that it has taken with the federal government to date, but our industry is continuously leery on the detrimental effect that harmonization could have.



Lampert's report states, "Rental housing is clearly one of the areas where a strong provincial government initiative could redress the wrongs suffered in the current design of the GST — and ensure that they are not repeated in the new harmonized tax." The construction industry recommends that if harmonization does proceed, it should be, at a minimum, revenue-neutral with respect to our industry. Preferably, the following will be implemented:

Extend the GST rebate to private rental construction; increase the GST rebate enough to offset the full combined impact of harmonization of the GST and the provincial sales tax; remove land from the tax base; eliminate discriminatory treatment faced by private rentals with respect to GST paid on operations. We encourage the provincial government to remember the interests of our sector in discussions with the federal government.

Rental controls: The industry, in conferring with Lampert for his report, recommended that the Rent Control Act be repealed and replaced with a transitional program which will ensure protection against unconscionable rent increases while deregulating the market to the fullest extent possible. The program must contain a sunset provision which will ensure its automatic demise within a specific period, preferably within the term of the existing government, to provide private investors with a greater degree of confidence that we are truly moving towards a market-based system.

While the proposal appears to be transitional in nature, there are no sunset provisions included. This is very disconcerting to the industry. If a new government comes into power, there's a possibility that amendments could be made to this legislation which would undo the positive aspects leading to a market-based system. That is why some industry representatives have called for a contract which would bind the government in the event that a subsequent government reimposes rent controls; for example, post-1975 buildings were not supposed to fall under rental control, but Bill 51 resulted in just that occurrence.

#### 1610

Dispute resolution: We recommend that the new dispute resolution system be at arm's length from the government so that it has the independence necessary to make impartial decisions. Outsourcing this function would likely be more cost-effective than establishing another government agency to resolve disputes. A fee structure for resolving disputes would have to be established. If decisions are appealed, we would suggest that in most cases the Ontario court system be used to settle the differences between landlords and tenants.

There has been too much rhetoric about tenants being evicted from their units as a result of this legislation. Our reading of the proposals would indicate there is ample protection for the tenants. The penalties which are contemplated are unnecessary, in our opinion. The vast majority of landlords have been unable to achieve legal maximum rents at the moment. Landlords prefer to keep tenants in their buildings rather than absorb the costs associated with tenant turnover. In our opinion, tenants will not be dislocated under these proposals. For the majority of sitting tenants, we predict there will be no noticeable change.

Thank you for listening to my presentation.

**Mr Curling:** Thank you for your presentation. Your presentation is consistent with what the home builders have been saying, but I continue to disagree with the fact that rent control is the monster in all of this. You have identified other areas, of course. You talked about escalating costs and the fact that the GST that is now being paid by landlords has driven up the cost of operating their buildings.

One of the things that I keep asking, though, is about the disrepair of the buildings that are there now, that landlords have not maintained — to a tune today of \$10 billion. What would have caused landlords not to have done any maintenance to the point where they reached \$10 billion of disrepair, an inconvenience borne by tenants today? Why would they not maintain their capital interests?

**Mr MacIntyre:** I think this is just on an individual basis. As far as the industry is concerned, in the residential factor and rental of the newer parts, property management is up to each property manager as they deem necessary. The repairs are a corporate type of thing that has to work down through the system, which we have no control over and you have no control over. It has to be on a one-to-one basis to keep that control. I have no suggestions on how you would be able to administer this.

**Mr Marchese:** Mr MacIntyre, I would have several questions of you under normal circumstances, but I'm going to make a statement. Then, if I have time, I'll throw in a question.

What we know is that there is no evidence whatsoever that rent control has restricted or made it impossible for people to build housing. In fact, the statistics you showed are quite clear: From 1971 to 1975, before rent control, there were 819 built; from 1976 to 1980, there were 1,879, in the heart of rent control; from 1981 to 1990, there were as many units built, almost. Then in 1990 to 1995 there were 520 units, and you linked that to rent control in your presentation.

The point Professor Hulchanski made, and Mr Lampert, who wrote the report for the government, is that the reason they've not been building in the last couple of years is because people can't afford to buy or can't afford to rent at high levels. That's really the major problem we've got. The reason some of you folks want rent controls removed is so you can raise rents as much as you think you can and make some money. That's as I see it.

You say there's ample protection for the tenants with respect to decontrolling. If that is so, why are so many tenant groups — individual tenants, legal clinics that work with tenants, tenant organizations — frightened about this? Is it their lack of experience in the field that tells them somehow not to worry because the market will take care of things and the rents won't go up? Is that your feeling?

**Mr MacIntyre:** No, I think every new item or change that comes on stream that is going to affect people — and it is going to affect people — is scary to most people who are in the situation. This seems to be the panic situation before a clarification. There has been no clarification of what this whole system is going to work out to. The fear of change is always very detrimental to people, and this is what you're having right now.



**Mr Hardeman:** Thank you, Mr MacIntyre, for your presentation. I just wanted to quickly go to the Lampert report. We've heard a lot of discussion on the Lampert report through our committee hearings, in particular from the members of the committee who expressed concern that the Lampert report does not deal with a total housing policy but only deals with the industry's view of what is required for the private sector to get back into building housing. In fact that's what Lampert was retained for: to find out what it would take to get the private sector into building.

Beyond that, it's been expressed that rent control is only one of the issues that apply to getting building back on the road; there are a number of other issues. One that you spoke to in your presentation is development charges. You suggested that in your community there are no development charges. But removing that would not bring the private sector back in; you're still not building sufficient houses. Is it fair to say, looking at the Lampert report and in your opinion, that it requires all those items, including rent control? If all the things that were mentioned in the Lampert report were accomplished by government, would the industry build without having the rent control regime that's present today changed to be more reflective of the times?

**Mr MacIntyre:** I think if most of the Lampert report were implemented, you would have a better chance for

development, from the fact that you would have more initiative to the fact that we're less restrictive on the building side. The simple fact is that the development charges and the new educational charges that will be laid on lots are detrimental to the industry, where we're having one sector of the population paying for a lot of the things the government isn't giving any money for any more. It's like a cash cow sitting there and they're just tacking dollars on lots for people to buy new homes — in some cases \$30,000 or \$40,000 a lot — which deters. When you get into this amount of money, it reduces the number of people who can get into housing.

**The Chair:** Thank you very much, Mr MacIntyre. We appreciate your input here this afternoon.

Our last presenter is from the Phoenix Rising Women's Centre. I understand they've not arrived yet. The clerk has gone to confer with them to see if they are still in fact coming, so we'll take a five-minute recess.

*The committee recessed from 1620 to 1622.*

**The Chair:** We're going to reconvene here for a couple of minutes. As usual, five minutes goes by very quickly. The representative from the Phoenix Rising Women's Centre is not able to attend, so we've heard our last deputation for the day. The bus picks us up at 8 o'clock to go the airport. We will be adjourned now until Ottawa tomorrow at 12 o'clock.

*The committee adjourned at 1623.*







## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)

\*Mr Harry Danford (Hastings-Peterborough PC)

Mr Jim Flaherty (Durham Centre / -Centre PC)

Mr Bernard Grandmaître (Ottawa East / -Est L)

\*Mr Ernie Hardeman (Oxford PC)

\*Mr Rosario Marchese (Fort York ND)

\*Mr Bart Maves (Niagara Falls PC)

Mrs Sandra Pupatello (Windsor-Sandwich L)

Mrs Lillian Ross (Hamilton West / -Ouest PC)

\*Mr Mario Sergio (Yorkview L)

\*Mr R. Gary Stewart (Peterborough PC)

Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)

Mr Len Wood (Cochrane North / -Nord ND)

Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello

Mr Gerard Kennedy (York South / -Sud L) for Mr Grandmaître

Mr John L. Parker (York East / -Est PC) for Mr Young

Mr Peter L. Preston (Brant-Haldimand PC) for Mrs Ross

Mr Toni Skarica (Wentworth North / -Nord PC) for Mr Tascona

Mr Bruce Smith (Middlesex PC) for Mr Flaherty

### **Also taking part / Autres participants et participantes:**

Mr Bud Wildman (Algoma ND)

Mr Tony Martin (Sault Ste Marie ND)

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell, research officer, Legislative Research Service



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of Ontario**

First Session, 36th Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
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(Hansard)**

**Wednesday 28 August 1996**

**Journal  
des débats  
(Hansard)**

**Mercredi 28 août 1996**

**Standing committee on  
general government**

**Rent control**

**Comité permanent des  
affaires gouvernementales**

**Réglementation des loyers d'habitation**



Chair: Jack Carroll  
Clerk: Tonia Grannum

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 28 August 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 28 août 1996

*The committee met at 1202 in the Delta Hotel, Ottawa.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to the hearings of the standing committee on general government as we discuss the proposed changes to the rent control legislation. It's our pleasure to be in the fine city of Ottawa on this beautiful summer morning.

Just to explain to you roughly how the process works so those in the audience will understand, each presenter is given 20 minutes. If they allow some time for questioning in that, we rotate the questions so each caucus has an equal amount of time.

REGIONAL MUNICIPALITY OF  
OTTAWA-CARLETON

**The Chair:** Our first presenters this morning are a little late getting here, so we're going on to the second group, which is the regional municipality of Ottawa-Carleton, represented by Alex Cullen, councillor, and Diane Holmes. Welcome. As I say, you have 20 minutes. Should you allow some time for questions, they would begin with my good friend Mr Marchese of the New Democratic Party. The floor is yours.

**Mr Alex Cullen:** Thank you very much, Mr Chairman. I want to say at the outset that we are here on our own behalf. We are members of the regional council for the regional municipality of Ottawa-Carleton but what we have to say to you is our own positions taken after reviewing the New Directions discussion paper.

**Mr Richard Patten (Ottawa Centre):** You're not speaking for Peter Clark?

**Mr Cullen:** I'm not yet speaking for Peter Clark. I should tell you that this issue will be coming before our community services committee later on next week. One of the problems with the paper coming out at the late date that it did, June 25, is that our council finished its business the first week of July, and consequently there has not been an opportunity for council to review this material. We will have a response for you, we hope, before the end of the month.

I'd like to introduce my colleague here, regional councillor Diane Holmes, who will have a few remarks after I'm finished with my written presentation, and we hope to have time for questions.

I want to make it very clear to the standing committee that rental housing is important to the region of Ottawa-Carleton and in particular to my own ward and my colleague's ward. My ward is Bay ward in the west of Ottawa and northern Nepean. Rental housing is about

46% of all housing in Ottawa-Carleton, the highest proportion of housing of any city in Ontario. This is what our staff tell us. It includes over 120,000 dwellings, home to over 300,000 people in the region, men, women and children who are tenants. Of the 20,000 homes in my own ward, over 60%, or 12,000, of these are rental units, housing seniors, young families and single mothers. These are people largely from low-income categories who cannot afford the changes being proposed in this discussion paper.

Housing affordability is an important issue in Ottawa-Carleton, particularly for tenants. Between 1990 and 1995, according to CMHC, average rents increased in Ottawa-Carleton between 16% and 20%, depending on unit type, all within legal rent control limits. Yet at the same time, the consumer price index increased only 12.8%. Further, the number of tenants with housing affordability problems, defined as paying 30% or more of their gross income on shelter, has steadily increased in the region since 1981 from 24.9% of all tenant households to 28.8% in 1991. Of all the households in Ottawa-Carleton with housing affordability problems, nearly two thirds were rental households. For those paying 50% or more of their income on shelter, nearly three quarters were tenants.

Further, about three quarters of social assistance recipients in Ottawa-Carleton live in private market housing, making up 40%, or about 39,000 households, in private rental housing. Affordability is clearly a problem here, particularly given the government's 21.6% cut in welfare rates.

As well, Ottawa-Carleton has its share of people living below the poverty line. I use the example of Statistics Canada low-income cutoffs. It's about 94,000 people, according to the 1991 census, or nearly a third of the renting population. This means that for a low-income individual, a person who would be receiving \$14,000 annual income, their affordable monthly rent would be \$354 or less; for a couple whose annual income is up to \$19,000, the affordable monthly rent would be about \$480 or less; and for a four-person low-income family with an annual income of about \$28,000, the affordable monthly rent would be \$702 or less. Considering that one-bedroom apartments in Ottawa-Carleton start at \$600 a month, this means that most of the 94,000 low-income people in Ottawa-Carleton, who are overwhelmingly renters, have a housing affordability problem.

Currently the regional municipality of Ottawa-Carleton is conducting an official plan review to cover the next 25 years. As part of that review, planning staff at the region published a series of background papers on housing. They state that there is clearly a crisis in rental housing in



Ottawa-Carleton. The problem lies in affordability of rental housing, not land supplies. Ottawa-Carleton has over 3,000 hectares of available urban land capable of supporting 89,000 units. Staff project that 5,700 residential units will be required each year from 1996 to 2011, 46%, or 2,600, of which will be new rental units. The question is how to achieve affordability of this housing. Unfortunately, most of the proposals contained in the government's New Directions discussion paper go in the wrong direction.

**Protection from unfair rent increases:** The government states as its first goal that tenants should be protected from unfair or double-digit rent increases, evictions and harassment and should be provided strong security of tenure. This is completely supportable. However, the government states as its second goal that protection should be focused on tenants rather than on units and proposes a number of measures consistent with this. This second goal and the associated measures, particularly vacancy decontrol, make a mockery of the first objective and have to be rejected.

The government is proposing that when a unit is vacated, the landlord will negotiate the incoming tenant's rent without regulatory restriction, that rent guidelines will once again apply when the unit is re-rented to the new tenant, and that rent controls not apply to new construction. The government's own studies show that each year between 20% and 25% of tenants move, and that within five years 70% of rental housing will have changed tenants, therefore changing rents under this proposal. This would mean that under the government's proposed scheme, rent control is effectively ended for most of the rental housing market over a relatively short period of time. Simply put, tenants can't afford this.

Tenants move for all kinds of reasons, not all of them voluntary, and the effect of these proposals would exacerbate an already difficult affordability problem for renters in Ottawa-Carleton. Lifting rent control as apartments vacate provides no protection for an historically mobile and vulnerable population, particularly those with modest and low incomes. It sentences renters to their apartments and provides incentives to landlords to turn over the tenants in their units to achieve market rents. This will create significant additional stress to the landlord-tenant relationship, particularly as repairs and service maintenance become negotiable under the government's proposals.

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Other proposals in this section of the discussion paper should be reconsidered. These include those dealing with capital expenditures, repairs and maintenance. The rent control guideline is currently set at 2.8%, in excess of inflation, currently running at 1.2%. Part of the justification for the larger figure is to finance repairs and maintenance. If so, these funds should be directed to capital reserves for these purposes and such expenditures financed from those reserves. This ensures transparency and integrity to the rent increase. This measure would also apply to the additional 4% rent increase for major capital expenditures being proposed in this paper.

As well, the requirement for the calculation of capital expenditures for "costs no longer borne" should continue.

To do otherwise creates a windfall rent increase to the landlord in excess of what it was originally granted for, and is simply unjustifiable. You don't pay twice for the same thing.

On the issue of passing through to tenants all utility and property tax increases, the first removes an incentive for energy and water efficiencies by the landlord, a responsibility which should be shared. With respect to property taxes, a more equitable solution, quite frankly, would be to place residential rental units on the same assessment and property tax footing as homeowner residential units. It makes no sense for a tenant on the same street as a condominium, as happens in my ward, with the same services and same square footage, to be paying more property tax. This is a reform identified by the Ontario Fair Tax Commission and is long overdue.

Finally under this section, the rent registry should be retained as it provides good information to the new tenant about the history of rents for his or her unit and it protects against discrimination.

**Maintenance:** The 1992 Rent Control Act allows tenants to claim rent rebates for inadequate maintenance, and a freeze on rent increases when there is an outstanding property standards order on the property. In this way the enforcement of local property standards bylaws is tied in with rent control legislation. This feature has proven effective and therefore should be retained. The government's proposal to sever this relationship by no longer issuing orders prohibiting rent increases should be rejected.

**Landlord and Tenant Act:** Currently no landlord may "unreasonably" refuse a sublet. This provision of the Landlord and Tenant Act has worked well and should not be changed. The notion proposed by the government that a sublease could infringe upon a landlord's right to charge an appropriate rent — read "market rent" — will lead to some landlords applying inappropriate pressures — read "blackmail" — on a tenant whose personal circumstances require him or her to move, in order to hike rents.

The government's proposal to increase maximum fines for landlord harassment will not satisfactorily correct the problem that it has been designed to correct. First, it requires considerable effort and investment by the tenant to initiate such a case. In fact few cases are initiated under this already existing section. Second, it is already difficult to prove intent. Third, the fines awarded under this section have been historically insignificant. Fourth, it simply creates a business case for the landlord who wishes to turn over his or her building to achieve market rents. This proposal, coupled with the proposal to establish a new anti-harassment enforcement unit, clearly shows that it is designed to compensate for vacancy decontrol, and merely highlights the problems that vacancy decontrol will create for sitting tenants.

**Dispute resolution system:** The government's discussion paper proposes creating a new dispute resolution system independent of the courts to adjudicate both rent control matters and other tenant and landlord issues. To be credible and have integrity, such a system must be independent of the government, must be governed by the rules of natural justice and due process, must provide



written reasons for decisions, must allow for appeals to a third party on issues of fact and process and must be subject to judicial review. Further, a tenant's rights to security of tenure must continue until his or her appeal has been judged. Costs for accessing the dispute resolution process should not be awarded, for to do so would create a barrier to exercising legitimate rights.

**Tenure and conversions:** The government proposes to change the focus of tenant protection legislation from protecting units to protecting the sitting tenant. This, quite frankly, is wrong, as the loss of affordable and accessible rental housing reduces choice and exacerbates an already difficult rental housing situation in Ottawa-Carleton, as I've outlined earlier. In particular, municipal approvals should be retained for all demolitions, major renovations and conversions of rental buildings. Conversion to local ownership tenure has been a major factor in losses of affordable rental housing in Ottawa-Carleton in recent years. Almost 5,000 town homes have been lost from our rental stock between 1989 and 1994. Safeguards must be put in place to protect affordable rental housing designed to meet local conditions. This is best done by the local municipality, in recognition of both local housing needs and heritage conservation. Renovations are not the issue here, as Ottawa-Carleton's housing stock is relatively young, with over 87% built since 1946, nearly a quarter since 1981. According to the 1991 census, only 6.2% of our total housing stock is in need of major repairs.

In conclusion, my involvement at both city and regional council has brought me into contact with many landlords and tenants, both good and bad. There is no doubt that there are individual circumstances crying out for justice. However, many of the proposals contained in the government's discussion paper would create more hardship for tenants, particularly with respect to vacancy decontrol, than would help tenants. Vacancy decontrol must be rejected, as it will reduce the supply of affordable housing and the choice for affordable housing for one of the largest and most vulnerable groups in our community: tenants. This proposal literally bleeds to death rent control, unit by unit, and makes a mockery of the government's initial goal. It does not protect tenants from higher rents and it reduces the supply of affordable rental housing.

In short, the government's proposals contained in this discussion paper are not balanced and will create greater harm than good. Therefore, I would urge you to make the necessary modifications to ensure that this becomes bona fide tenant protection, and not what we have before us today.

Now I turn the microphone over to my colleague, Councillor Holmes.

**Ms Diane Holmes:** Thank you very much, ladies and gentlemen, for letting us come to speak to you today. I know you're all aware that what we're doing today is talking about how much of a role government should play in the field of housing, whether housing should be just a commodity on the private sector market or whether there is a role for governments in housing. I believe very strongly that in fact there is a role for governments to play in housing. Of course it is mainly a private sector market business, but there is a role for governments, both

in legislation and in ownership, for that percentage of our population that is most vulnerable. Most countries in the world, of course, are going through this kind of discussion we have today. As we go through booms and busts in our economy, there are needs for governments to look at how much control they should have.

I represent the downtown ward that we're now in. Approximately 80% of my residents are tenants, and I represent what is in Ottawa-Carleton the immigrant entry area of the city, so my residents are a large percentage of Vietnamese population, Chinese population, some Somalian population. They are even more vulnerable than many others because of the language difficulties and the cultural differences. There is a great need for affordable housing for that population.

I want to talk about a couple of things in your proposed legislation. One is the matter of security of tenure in conversion; the other is the decontrol of rent control.

As you are no doubt aware, RMOC has had a condominium conversion policy since 1976, along with Mississauga, the city of Toronto, the region of Peel and Scarborough. They preceded the region of Ottawa-Carleton in introducing our own condominium conversion policy, which was in the official plan in 1976. Long before the government brought in the Rental Housing Protection Act, many municipalities had their own forms of preventing condominium conversions, and that was based on their own planning departments doing the basic research.

I brought with me the 1976 planning department's proposal to council of the day. The rationale is quite clear: that there were many buildings looking to convert, mainly large buildings with many units. The reason our planning department in 1976 gave for those conversions was the growing acceptance by the public of condominium ownership, because the Condominium Act was becoming more known and more popular, and of course the immediate return developers can receive in building a condominium project or converting to condominium rather than building a rental project. We have had, really, in this area more than 20 years of protection against condominium conversion, and most of the other large cities in Ontario are the same.

For you to contemplate getting rid of the Rental Housing Protection Act and also preventing municipalities from having any control is really going to be a terrific hardship on our tenants in this area. I can understand that you might want to get out of the business of conversions as a government, but to prevent municipalities from having public meetings, dealing with their own public and deciding what is most important for tenants in their municipalities is going to be a disaster for tenants in this area. We will see thousands of units converted, and that will affect those people who are the most vulnerable.

1220

The other matter is the decontrolling of rents. It is all very well to state that you're going to allow a tenant to be secure in their own unit forever, but we know that 25% of the tenants move in any given year, so over four or five years all the rental units in this municipality will be decontrolled. Since we're now in a major depression in this municipality, that may not have an effect for a



year or two, but come the return of better economic times and boom years, we will see the rents really increase significantly, and that will again be a major problem, certainly for the people who live in my ward, who have very low incomes and do need affordable housing and some protection of that affordable housing.

I would ask that you seriously consider the business of conversions and allowing municipalities to retain the ability to deal with their residents as their residents seem to feel the need, because that is all dealt with through public meetings and public discussions; every municipality is different and every municipality goes through different economic booms and busts and has different amounts of housing in different percentages of uses. I also ask that you seriously consider the loss of rent control, that you do not take away rent control as we know it now.

Thank you again, ladies and gentlemen, for listening to us. We hope to take this matter to regional council in time to get a comment in to you from the council before you make your final deliberations.

**The Chair:** Thank you for your input this morning. We do appreciate it. Unfortunately, there's no time left for any questions, but we do appreciate hearing your thoughts.

#### AEGEAN ENTERPRISES

**The Chair:** Is Mr Dickie in the audience yet? No? Mr Papadas, are you interested in making a presentation?

**Mr George Papadas:** Yes, I am.

**The Chair:** Have a seat, sir. This is George Papadas, president of Aegean Enterprises. The floor is yours.

**Mr Papadas:** Thanks. My name is George Papadas. I'm president of Aegean Enterprises. We didn't come here to complain; we came to open the area of seeing if we can coordinate the assessment board and the rent review board, and I'll tell you why.

Since the introduction of MVA, market value assessment, a lot of landlords are paying taxes on rents they are not collecting. I'm going to give you some examples. If you have any problems with my accent, stop me and I'll repeat the words. To give you an example, a two-bedroom apartment for 1995 is assessed for \$742, for a category 3 building in downtown Ottawa. The rent review board says you cannot collect that. A lot of apartments are a lot less than that, from \$550 to \$650. What's happening here is that the landlords are subsidizing the municipal taxes of the tenants. To make it easier to understand, it's like you, Mr Chairman, making \$50,000 a year and paying taxes on \$75,000. It's as simple as that. A lot of them are going bankrupt.

The paper I'm going to give you — I had a talk with Daniel Burns last year, October and I've given this exact same paper to everybody else up to Mike Harris. What I'm asking you to do is to let those landlords who are paying taxes on rents they are not collecting pay the assessed taxes. If the assessment board comes along and says, "Okay, you collect \$600," let them collect that, because basically we subsidize the tenants' municipal taxes. It's as simple as that. Most of them are going bankrupt anyway. If we can save whatever is left, it will be appreciated.

What we suggest is this, to let the assessed rents be caught up in two years' time and to exempt senior citizens and people on social assistance. Basically, we're going to be on good relations with our tenants. They are our customers. There are a lot of people who do not deserve to stay in a \$550 apartment. I have tenants myself who have triplexes in the Glebe and they rent them for \$900 and they stay in my apartment, paying \$500. Let's help the people who really need help, like the senior citizens, for instance, or people on fixed income or people on social assistance.

For these people to survive, they have to collect the assessed rent. It is only just. It's as simple as that. You cannot pay taxes on money you don't collect. A lot of the landlords I talk to, most of them ethnic and small landlords, think taxation is fair. They also think the way the categories of the buildings are assessed is fine; the city has done an excellent job.

Another thing about the assessment board is this. It does not give an incentive for a landlord to maintain his property. For me, for instance, I'm going to let my property deteriorate, fall down from category 1 to category 3, so I can pay less taxes. Therefore, the way the system is now rewards the slum landlord. Something has to be done about it. Since the introduction of the MVA, also the new fire code was introduced. A lot of these landlords have to come up with extra cash to change the doors, to put in new lighting systems, emergency systems. Basically, there is no money there to do it. It's like asking Donovan Bailey to run the 100 metres in eight seconds. It cannot be done. Humanly, it cannot be done.

I was talking to government employees, and a lot of them don't understand how the economy works. They said to me, "Go and get a loan," so I told them the banks are not giving people loans when they lose money, especially when properties are losing money.

There's another thing. If you let the landlords collect the assessed rents, which is only fair — the assessed rents, by the way, are below the maximum rents; the maximum rents downtown are about \$850, according to the charts I have from the CMHC. The assessed rents are about \$750, which is a lot less than the average rents. A lot of people are going to benefit, and I'll tell you how they're going to benefit. First of all, the government is going to lose millions of dollars in expenses. We have these hearings in the municipality; we go to the municipality. When people lose, they have to apply to the Ontario Municipal Board. Going to the Ontario Municipal Board, if they win, the assessment board can apply against them, so we're going in a circle. It's like a puppy chasing its tail, more or less. It's costing a lot of money, million of dollars to taxpayers, and a lot of hardship.

The other thing is that the landlords will be able to repair their properties. The way the system is now, the people are caught below the MVA rents. There is no way; there is no money to make any repairs. So who is losing in the long run? The tenants are losing. This creates a lot of friction and a lot of hardship. We want to be on good terms with our tenants because they're our customers. By the way, the MVA was introduced all over Ontario except Toronto.



If you allow landlords to collect the assessed rent, there won't be any excuse for letting the properties deteriorate or letting the properties come down to a lower category. This is going to create a lot of jobs. What the previous government did was tax us to death and take the money and pay unemployment to drywallers and electricians and roofers. I have in my buildings tradesmen, and they're pretty upset. A lot of them wrote to the ministry. They don't want cheap rent; they just want to work. I had a fellow, a drywall, who had steady work for about 15 years, and since the introduction of the MVA, he works sporadically here and there. What they've done is tax us to death and pay unemployment to people who should be taxpayers.

The other thing is, as a small developer myself, I do not have any incentive to go and build. I'll tell you why. For me to build now, I have to go to the outskirts of Ottawa; there is no land in downtown Ottawa. If I go to the outskirts of Ottawa, to make it very simple, to break even on a two-bedroom apartment, with land at \$65 a square foot, I have to rent it for \$850 to \$900. That means I don't make any profit, but I break even. That doesn't give me any incentive to do that, because my competition has cheaper rents in more favourable areas. The NDP government had exactly the same idea. They said, "You can build new apartments and they're going to be rent control exempted." Nobody did it. Why? Because the competition was cheap apartments downtown.

1230

If you allow the landlords to collect the assessed rents, this is going to bring better equity, better buildings, and it is going to cut down on the bureaucracy, the appeals, the OMB, the assessment board, the hearings here in Ottawa. It's going to save a lot of money for a lot of people and a lot of hardship.

By the way, I was talking to an economist from the University of Ottawa, and she looked through the charts we have, and she told me the way the system is now it is like buying tomatoes for \$5 and selling them back for \$4 to the tenants. That's the way it is — very simple.

**The Chair:** Thank you, sir. You've allowed about three minutes per caucus for questions, beginning with Mr Marchese.

**Mr Rosario Marchese (Fort York):** Mr Papadas, you say, "We believe that if landlords are allowed to collect the rents that we are taxed on, everyone would benefit." What I read from that is that what it would mean to tenants is that they would have to pay more. Is that correct?

**Mr Papadas:** Absolutely. They have to pay their municipal taxes, like you and me and everybody else. They have to carry their weight.

**Mr Marchese:** Most tenants pay taxes, of course, but you're saying not enough?

**Mr Papadas:** Not enough. We subsidize the municipal taxes of the tenants.

**Mr Marchese:** You're subsidizing?

**Mr Papadas:** Yes.

**Mr Marchese:** What you're also saying is that obviously the tenants are doing okay and they could afford an increase very likely. Is that more or less correct?

**Mr Papadas:** A lot of tenants can afford it. The senior citizens, for instance, on fixed income —

**Mr Marchese:** No problem? They can afford it?

**Mr Papadas:** No, they can't afford it. Don't create a hardship to a senior citizen or to a person on social assistance, but there are tenants who can afford it, and I have given some examples.

**Mr Marchese:** I'm sure there are some tenants who can afford it, but many are spending more and more of their disposable income on rent. When they do that, the more money they take out of their pocket to pay for rent, the less money will be spent in other things that are needed, and if that were to happen, I think the economy would be in worse shape, as less money would be spent.

**Mr Papadas:** No, sir. You're absolutely wrong, because —

**Mr Marchese:** I see. Because they help you as a landlord, you believe we'd all be better off?

**Mr Papadas:** No, you're absolutely wrong. They're going to help themselves, because they're going to become self-reliant, self-sufficient.

**Mr Marchese:** By paying more, they become more self-reliant and self-sufficient?

**Mr Papadas:** Yes, and they're going to live in a better building and they're going to create jobs too, and they're going to carry their fair share. What are you trying to tell me?

**Mr Marchese:** Mr Papadas, I'm asking you. They're paying more rent, and you're saying they would be better off in the end?

**Mr Papadas:** They have to pay their share of rent. They have to pay their municipal taxes like I do and everybody else. We subsidize the municipal taxes. Is that fair? I don't think so.

**Mr Marchese:** So you would be supporting this proposal by the government. The landlord can now collect up to 5.8%, the guideline of 2.8% plus 3% extra for other extraordinary capital expenditures, taxes and hydro. This government proposes to increase the capital expense allowance by 1%, which would make it 6.8%, and it would also propose to add on top any extraordinary expenses such as taxes, hydro and the like, which would add, for most tenants, who have not gotten a wage increase for a long, long time, an incredible economic burden, don't you think?

**Mr Papadas:** Sir, I'm not interested in your philosophical argument. What I'm arguing here is, let me collect the money I'm taxed. I put the question to you. How would you like to pay taxes on \$70,000 when you only make \$50,000? It just doesn't make sense. Would you like to do that?

**Mr Marchese:** Can I ask you a question? Are you surviving as a developer or as a landlord?

**Mr Papadas:** No. I'm that close to going bankrupt.

**Mr Marchese:** You're close?

**Mr Papadas:** Yes, and a lot of my friends. I cut clips, and I used to send them to Daniel Burns, because Daniel Burns is the only one who understands the assessment situation in Ontario. He's done a lot of work on the assessment board. I used to cut clips from the Citizen and other newspapers all over Ontario and send them. The bankruptcies are coming out of your ears. We subsidize your standard of living.



**Mr Ernie Hardeman (Oxford):** Thank you for the presentation. Just to get it clear in my mind, you mentioned that there's an increase in taxation because of the reassessment of your properties, the assessment being based on the value of the rent you were eligible to collect but couldn't collect.

**Mr Papadas:** Absolutely.

**Mr Hardeman:** And under the present regulations, you cannot pass through the increased taxation to your tenants.

**Mr Papadas:** Yes.

**Mr Hardeman:** Is the problem, then, with the present rent control and not being able to pass it through, or is it with the assessment that rental properties pay, a disproportionate share of the local taxation?

**Mr Papadas:** That's exactly why I'm here, to have the assessment board and rent review board under the same ministry, the Ministry of Housing. You have to coordinate those ministries. You cannot say to a person, "You collect \$800" — one board says \$800, and the other board says, "You can't collect that." That's surreal, that's bizarre. It's not my responsibility to do that. I came here to see if I can help the ministry to find a way to coordinate those.

**Mr Hardeman:** The rental units you're referring to, have you got comparable units of owner-occupied in the region and how the taxes would be compared?

**Mr Papadas:** Yes, I'll tell you. The system is complicated. That's why I gave only one example in the paper. It goes by region and also by category of buildings. Let's say the Glebe or the downtown core is more lush, a richer neighbourhood. Therefore, the economic rents or the assessed rents are a little bit higher than Vanier, for instance. Also, if you go in a region like the Glebe, there are different categories of buildings, category 1 and category 3 buildings. I just came halfway myself. I picked up a building, category 3.

**Mr Hardeman:** When your taxes went up in the rental market in the region, in which sector of the population did the taxes go down in order to accommodate that, recognizing in market value assessment that for every dollar it goes up somewhere, it goes down somewhere else? In the region, where did it go down?

**Mr Papadas:** It went down mostly to housing in the suburbs, like Kanata and Orleans. But there are not apartment buildings down there; a lot of new houses in Orleans and Kanata. In the outskirts, the new suburbia, their taxes came down. What I'm talking about here is strictly multiresidential, like high-rise buildings.

**Mr Bernard Grandmaître (Ottawa East):** On MVA, this happened some time ago, and you're saying that because of the formulas being used to calculate MVA, landlords are losing money because of their assessment. You say the landlords should be allowed to collect their rents as the way you are taxed. But as a businessman, when you file your income tax, if you've lost three or four or five months of rents, you can claim it on your income tax as a loss for that property.

**Mr Papadas:** No, we don't claim any loss.

**Mr Grandmaître:** Yes, you do.

**Mr Papadas:** Mr Grandmaître, let me explain to you. I didn't say that landlords are losing money.

**Mr Grandmaître:** No, no, I didn't say that.

**Mr Papadas:** Excuse me, sir, that's what you just said, "losing money." What I'm saying to you is, let them collect what they are taxed. Landlords do not lose money, because they have a building that is paid off. How can they lose money? Nobody is losing money.

**Mr Grandmaître:** You just said —

**Mr Papadas:** I didn't say "lose." I didn't use the word "lose." What I'm saying to you, sir, is, if you tax me on \$70,000, let me collect it. That's all we want.

**Mr Grandmaître:** But if you lose rent, if you lose, let's say, three or four or five months of rent in your building or buildings —

**Mr Papadas:** The way we calculate taxes, sir, we don't show losses; we show a general income. If I have half of my apartments rented —

**Mr Grandmaître:** But you only pay income tax on your profit, not on your losses, right?

**Mr Papadas:** It's not a loss. Either I collect that amount — I report the amount I collect.

**Mr Grandmaître:** I'm sorry, sir, but as a landlord I can claim my losses when I file my income tax.

**Mr Papadas:** It's not a loss, sir.

**Mr Grandmaître:** If you're not claiming your losses —

**Mr Papadas:** Sir, you don't understand how the system works. Excuse me, we're not talking about a loss here. It's not a loss. I have an apartment building. In a good year, I collected \$80,000, in a bad year, I collected \$60,000.

1240

**Mr Grandmaître:** My next question is a very short one. You said you should let your properties deteriorate and so on and so forth. Explain this to me.

**Mr Papadas:** I have a great incentive. I'll tell you why. The assessors come into the building and say, "Your building is category 1, 2 or 3." If it's an immaculate building, it's category 1. Now, to keep this building in that particular state, you have to spend a lot of money on a lot of maintenance. Usually new buildings are in category 1. I have an incentive, myself, to let my building deteriorate, to let it go from category 2 to category 3, because I pay less taxes. The higher the number of the category, the less the taxes. They go up to category 6.

A lot of landlords — they don't do it intentionally or maliciously — have no money to do the repairs any more and things are deteriorating. So when the assessors come and they say the property is deteriorating, they fall into a lower category, a higher number, and they pay less taxes. So I have no incentive to maintain my building; the system penalizes the good landlord and rewards the slum landlord.

**The Chair:** Thank you, Mr Papadas. We do appreciate your input here this morning.

OTTAWA-HAWKESBURY LEGAL CLINICS  
CLINIQUE JURIDIQUES D'OTTAWA  
ET HAWKESBURY

**The Chair:** Our next presenters are West End Legal Services, Mary Garrett, Sue Skinner, Louise Toone and Lori Pope. Good afternoon. Welcome to our committee.



Should you allow any time for questions in your 20 minutes, the questioning would begin with the government. The floor is yours.

**Ms Sue Skinner:** I would like to thank the committee for providing some time for the Ottawa and Hawkesbury legal clinics to give some comments. I, from the south Ottawa clinic; Lori Pope, from the Ottawa university student legal aid; Louise Toone, from the Hawkesbury clinic; and finally Mary Garrett, from the west end legal clinic, will be making representations that affect eastern Ontario.

We endorse the brief already presented to the committee by the Legal Clinics' Housing Issues Committee, the LCHIC brief. That brief describes many problems with the proposed legislation, which in our view will not protect tenants, as it purports to do. You will also be given briefs today which go further into the various topics which we will be speaking about.

I would like to talk about problems facing co-tenancies. The government's proposal for the new legislation is silent on this, and we would like to encourage your committee to recommend that co-tenancies be protected. Some of the problems are:

(1) If there's a falling out between two or three co-tenants and one or more of the tenants decide to leave, does this mean, with the new legislation, that the person staying is a sitting tenant, or has a new tenancy been created between the landlord and the tenant?

(2) If one or more tenants breach their obligations, the entire tenancy is terminated, as it stands now. For example, if one tenant doesn't pay their share of the rent, the effect is that the tenancy as a whole is terminated. There should be some process whereby the landlord could evict the non-paying tenant but allow the paying tenants to remain after negotiating some sort of payment scheme to remove the debt from the unit.

(3) If there is a dispute between co-tenants, which is not an uncommon problem, there's presently no mechanism in place under summary proceedings for the tenants to resolve the differences. The government is organizing a landlord-tenant pilot project using mediation in Ottawa. Mediation should be used in situations where there is more or less equal bargaining power. We would recommend that co-tenants in a dispute would be better suited for mediation.

(4) At any given stage of eviction proceedings, there are a great number of forms available for landlords to use. However, there are no forms specified for tenants. For example, there are no forms available for tenants to apply for an abatement of rent; there are no forms available for tenants who are disputing a landlord's application. In our submission, all forms should be designed to be user-friendly and written in plain language.

I will now turn to Lori Pope from Ottawa university student legal aid.

**Ms Lori Pope:** Good afternoon. I'm going to talk about a particular variation of co-tenant disputes, and that's the situation that arises in the context of violence against women. I believe you should have received my brief, which is called *How Landlord-Tenant Law Can Help Stop Violence Against Women*.

Violence against women occurs in a situation of accommodation in a number of ways. It can be a threat from a tenant in another unit in the same building. It can be a threat from another person in the same unit that she herself is living in. It can also be a threat from the landlord or the landlord's agent, or from a non-tenant who is simply coming into the building to harass the tenant.

In my submissions I've set out some of the protections in the current act that a woman can use to protect herself against violence from a landlord or an agent or from a non-tenant who's entering the building. I suggest that in these cases as well as in the situation of fear of violence from a tenant in another unit in the same building, the law should allow a tenant to leave without any loss to her if a landlord is unable or unwilling to provide the necessary security for her that is obviously a fundamental part of any quiet enjoyment of the premises, something every tenant is entitled to expect. Otherwise the landlord is not necessarily going to have any incentive to provide that kind of security and it means that society is going to have to pick up the costs, whether those be medical costs, social costs or the costs of going through the justice system.

Now I'm going to look particularly at the situation of a co-tenancy where one tenant fears violence from another tenant in the same unit as she is. One thing that's very important to note is that the Family Law Act, which does allow common-law partners to have certain protections such as restraining orders and orders for exclusive possession of the matrimonial home, does not kick into place until the couple has been living together for three years or they've been in a relationship of some permanence with a child in common. So there are very many people who will be living with their partner in an apartment but will not have the protection of the Family Law Act if there is violence in the relationship.

Our proposal is that the government add as part V to the Landlord and Tenant Act protections that are based on the Victims of Domestic Violence Act. This is an act that was proclaimed about a year and a half ago in Saskatchewan. You have a copy of that attached to my submissions. The three sections of the Saskatchewan act I'd like to draw to your attention are, first of all, section 3, which allows a justice of the peace to provide some immediate protection in the form of a restraining order, orders to allow a police officer to go with someone to collect their goods or to remove someone from the premises.

The second section that is very important for victims of domestic violence is section 7, which provides for the more long-standing protections of the victim assistance order, which gives more powers to the police to pick up somebody who is going into premises where they've been barred; restraining orders again; also orders for compensation for damages that have been incurred by the victim because of the violence.

The third section I'd like to draw to your attention is section 10. This is the section in the Saskatchewan act that talks about the effect of these orders on property and leasehold interest. What this act provides is that in Saskatchewan, if a victim of violence is living in the



apartment but is not on the lease, she can't be evicted afterwards; if the tenant on the lease who was assaulting her is barred from being there because of a restraining order, she can still stay in the apartment. This section also provides that she can assume the lease. Our proposal is that she should not be responsible for any of the unpaid rent by the previous tenant or any damage he may have incurred; it's up to the landlord to pursue him. The landlord is not at the same type of risk from retaliation that she faces. So she should be allowed to assume the future obligations to pay rent and live in the apartment.

The final recommendation we have is that although generally we support the idea of a mediation process for co-tenants, that wouldn't be appropriate in a situation where there has been violence, because of course there's an imbalance of power in that situation.

In conclusion, I'd just like to say that for many years the law did not recognize the reality that many women face violence from those who are closest to them. Adopting these provisions will help to make the law reflect the reality of many women's lives, and in doing so, I would suggest that it may help to change that reality, because it's a terrible reality and it's something we have to fight on all fronts.

Maintenant c'est Louise Toone qui va vous adresser.

**M<sup>me</sup> Louise Toone :** Bonjour. Je vais vous entretenir du système des règlements des disputes. Ça, c'est dans votre document de consultation. C'est le sujet aux pages 8 à 11.

Comme noté dans votre document, on explique aujourd'hui deux systèmes. Les gens qui ont un problème peuvent soit aller à la cour, ou bien ils peuvent aller au bureau du contrôle des loyers. Ça dépend de la nature du problème. Le document propose de combiner tout ça ensemble. Alors, on propose en fait d'enlever la cour et de mettre ça dans ce qu'on appelle un tribunal administratif, une agence indépendante.

Votre document propose deux modèles. Je vais élaborer sur un de ces modèles. Je voudrais ajouter qu'on n'est pas nécessairement en désaccord avec cette proposition-là, sauf que si on crée une agence, un organisme administratif, il faut quand même le faire en tenant compte de certains critères de base.

1250

Un critère, c'est la question de la nomination des décideurs, qui est en fait adressée dans votre document. Nous, on tient à ce que les gens qui vont prendre les décisions soient des gens avec de l'éducation, de l'expérience, les compétences requises. On ne veut pas que ce soit ce qu'on appelle en anglais du «patronage». On ne veut pas avoir des amis politiques nommés à ce genre de poste. En fait, ça touche beaucoup la confiance du public. Le public a beaucoup de confiance dans un système quand on voit que les gens sont impartiaux, qu'ils ont les compétences. Les gens perdent confiance quand ils savent que c'est quelqu'un qui a contribué au parti, qui a un poste qui paie 100 000 \$ par année. Ça, c'est très important.

En plus, il y a toute la question de l'accessibilité, la simplicité. Un organisme administratif doit être simple. Quand on enlève la cour et on va le mettre dans un tribunal, on cherche à rendre moins complexe. Alors,

pour faire ça on a déjà touché des formulaires vulgarisés, qu'on dit — il faut aussi que l'agence ait un rôle d'éducation. On réussit à diminuer le nombre de problèmes, de disputes, lorsque les gens sont bien éduqués. Quand et les propriétaires et les locataires connaissent leurs droits, connaissent leurs obligations, il y a moins de problèmes. Alors, une agence devrait avoir un rôle d'éducation avec des lignes téléphoniques, des dépliants et ainsi de suite.

Aussi on sait à ce que les locataires aient un accès égal à ce tribunal. Aujourd'hui, ce sont clairement les propriétaires qui ont accès au système judiciaire. Ce sont eux qui commencent la majorité des requêtes, et les locataires n'y ont pas accès. Alors, on trouve que c'est très important qu'on donne autant de priorité aux causes, aux problèmes des locataires qu'aux problèmes des propriétaires, et c'est en dépit du fait que les propriétaires aiment toujours se plaindre que c'est les locataires qui ont tous les droits. Ils n'ont pas accès à la cour.

Finalement, il faut aussi s'assurer qu'une telle agence ait des ressources financières. Ça ne marche pas s'il n'y a pas d'argent. On peut certainement demander aux gens de payer certains frais comme on fait à la cour, sauf qu'il ne faut pas le faire au point où ce n'est plus accessible aux gens à faible revenu, et ça, c'est surtout des locataires.

On tient aussi à ce que ce soit accessible aux francophones. La cour aujourd'hui dessert très mal les besoins des francophones. Je vais vous donner une étude à cet effet. Donc, pour nous il est très, très important que les francophones soient bien servis. Ça veut dire non seulement que la personne qui prend la décision doit être bilingue ou francophone ; ça veut dire que la personne qui répond au téléphone doit être capable de parler en français, que les formulaires doivent être en français. Il faut tout, tout, tout le processus soit disponible et ouvert aux francophones afin qu'ils aient un accès égal.

Finalement, votre deuxième proposition dans votre document, vous avez deux options. Vous suggérez deux façons, soit un organisme indépendant du gouvernement ou un département du ministère. Nous, on s'oppose à cette deuxième suggestion parce que, à ce moment-là, ça demeure dans le ministère. Ce n'est pas indépendant, ce n'est pas impartial, et en plus, ce sont des gens qui deviennent susceptibles aux pouvoirs politiques. Vous êtes peut-être au pouvoir aujourd'hui, les conservateurs, mais vous n'y serez peut-être pas pour toujours. Alors, il faut planifier à long terme.

**Interjection:** Hear, hear.

**Mr Marchese:** And you're going to do it?

**M<sup>me</sup> Toone :** Alors, je voudrais tout simplement conclure. J'ai préparé un résumé de ma présentation que je vais vous remettre. D'ailleurs, j'ai deux études annexées à ça. Il y a une étude du professeur Marc Cousineau, qui a fait une étude très élaborée des services en français en Ontario pour le ministère du procureur général — j'ai des copies pour tout le monde — et aussi de la professeure Martha Jackman, qui a étudié justement la question de prendre des domaines et de transférer de la cour à un tribunal administratif. Son exemple, c'est les problèmes de propriétaires-locataires, donc c'est très à propos. Malheureusement, je n'ai pas fait 30 copies. Donc, je vais rapporter ça avant la fin de la journée.



Je vous remercie beaucoup. Je vous passe à Mary Garrett.

**Ms Mary Garrett:** My colleagues have addressed you with regard to what should happen if landlord-tenant issues are removed from the courts. I want to speak to you about not letting that happen.

We believe that tenants are best protected in the courts for such an important thing as the security of their home. I would like to advise you of two examples of ways that the matter can be streamlined to allow the court system to work faster; that is, the duty counsel program and the mediation program. We are sure there are other ways that could also assist the court system, but someone else will have to bring those to your attention.

I have presented a paper which I leave for your information, and that's this one that's been presented you. Because we obviously don't have time to go through all that in my four minutes, I'm just going to summarize it.

I would like to tell you that we have been working in the duty counsel program in Ottawa for almost 10 years. The four legal clinics in Ottawa — that's South Ottawa Community Legal Services, the Ottawa university and West End Legal Services — send two to three staff weekly to the courthouse. Each week one of the clinics takes a turn doing this.

The program has been streamlined over the years and I believe it functions well, to the benefit of the tenant, the landlord and the court. We started this because of the large number of set-asides we did. They were time-consuming not only to the legal clinics but also to the courts and to the landlords. A landlord would get a default decision for tenants who actually did show up, and we would have to set them aside and a hearing date would be set for three to four months away.

Like today, most of the evictions were for rent arrears, and tenants needed assistance to get the terms for paying back what they owed. Our duty counsel represents all tenants who appear in court on their own behalf that day. We evaluate the problem, counsel the tenant, negotiate with the landlord and represent the tenant before the court if need be.

Today, of those cases represented by duty counsel, about 60% of the matters before the registrar at first appearance are resolved by duty counsel. Those that are not resolved are either adjourned to another day so that either the landlord or the tenant can provide more information for the court, or a court date is set, and now those court dates are being set anywhere from two to six weeks away. We believe in that because we can resolve so many at the first stage.

Not all duty programs in Ontario are like the one in Ottawa. The one in Toronto may not be as efficient, since they have one person giving advice to tenants despite their large volume of business. This person actually can't do any negotiations because there just isn't time. In other programs in smaller communities, we've been told by the legal clinics, they sit in their office and the courts will call them and say: "We've got a landlord-tenant motion. Someone's here. Do you want to come and help them?" That's how their duty counsel program works. We believe that a proper duty counsel program for the appropriate city or village or town is what we need to streamline the system.

1300

The government has also started or is in the process of starting a pilot project on mediation in landlord-tenant court. Ottawa and Toronto are going to be the two starting test cases. This is so new that the first meeting in Ottawa to discuss it is next week. We don't know how this is going to affect the court system, but it surely should be given a chance before it gets thrown out by this legislation.

I would again like to thank you for having us all here to speak to you today.

**The Chair:** You've used up all your time except for a minute. Does someone have a closing statement they want to make for a quick minute?

**Ms Garrett:** I would like to thank all of the tenants who are concerned about this legislation and showed up today to show you that they're angry with this paper.

**The Chair:** Thank you very much, ladies. We do appreciate your input here today.

#### CENTRETOWN CITIZENS OTTAWA CORP

**The Chair:** Our next presenter is Catherine Boucher, executive director of Centretown Citizens Ottawa Corp. Good afternoon. Welcome to our committee.

**Ms Catherine Boucher:** I believe I've distributed enough copies of our presentation. I don't know if you've received it yet. I want to thank you and I'm heartened to see regional representation, as well as a previous Minister of Housing, at least one.

I thank you in advance for your time. I just want to introduce our organizations a little bit. I work for a private non-profit housing corporation. We've been around downtown Ottawa for over 20 years and we manage over 1,200 units of housing. We were around just before the introduction of rent control and a lot of the current landlord-tenant legislation and we've been around through vacancy rates as low as 0.1% and as high as the current rates in Ottawa-Carleton, which are at a 15-year high. So we have an experience that's about 20 years of managing rental housing. However, I'm going to speak more specifically about being a manager of social housing, which is in many ways similar but in some ways different.

I'm sure you're somewhat familiar with social housing in that it's government-funded and part of our mandate is to provide housing for low and modest-income people and our units or some portion of them are rented on a rent-geared-to-income basis.

We noted that in the discussion paper there was no mention made at all about the special requirements of social housing and we wanted to at least ask the members to look at that a little bit differently. The current landlord-tenant legislation and Rent Control Act makes very brief requirements or it has some minor clauses referring to social housing. However, the experience over the last 20 years in not having some things more clearly defined in both acts has made it difficult for both tenants and landlords in the courts as far as social housing.

Some of the more specific requirements that we'd like the panel to look at is, one, the issue of subletting. The current landlord-tenant act does have a clause which



precludes tenants in rent-gear-to-income units from subletting. The problem that occurs for social housing landlords is where a tenant has allowed someone to move in with them, which is legal. However, our obligation is then to recognize that person by adjusting the rent and there is therefore an assumption that that person is also a tenant.

What happens is, if the initial tenant moves out, then the person who remains essentially can take over the tenancy. What that means in some instances is that tenants who may have moved into a unit two or three months previous have essentially jumped the waiting list, as we say, because we're obligated to keep a waiting list for those units. That's an issue for us in that it isn't clear once we've agreed to receive rent from someone based on their income. If we could clarify in the act that for social housing the original signatory is in fact the tenant, that would be giving a modicum of fairness to people who have waited for many years on a waiting list.

The other issue more specific to social housing has to do with abandonment. This happens in rare instances, but in some instances we have had tenants in rent-gear-to-income units where we're not sure if they've vacated, but they've not been living in the unit for extended periods of time. In some cases those are legitimate due to hospitalization or for whatever reason. If the person is away for an extended period of time, there are instances where other people may be living there and paying the rent on their behalf; however, they're not necessarily eligible for assisted housing. So we would like some recognition of that in some clarification for social housing landlords of how we can deal with those situations.

A whole group of social housing providers are referred to in our sector as supportive housing providers. Our provincial association, the Ontario Non-Profit Housing Association, has tabled with this panel a rather large brief on the specific needs of supportive housing providers, and I just want to take an opportunity to endorse that.

Some of the specific requirements that they're looking to have to do more generally with the fact that a lot of supportive housing is shared in that in some cases bedrooms are shared and in almost all cases common areas, kitchens and washrooms are shared and the special requirements that that has vis-à-vis giving all tenants the right to quiet enjoyment or access and there are specific issues around there. I don't know if you have the brief with you, but I would encourage you to look at it and support the recommendations in it.

Those are some of the more specific issues around social housing.

Generally on the landlord-tenant act we're pleased with some of the recommendations and we have some minor recommendations of our own. One is on the issue of abandonment. Just note that it is a landlord's obligation to mitigate losses as soon as they're made aware of them, by obtaining a writ for an abandoned unit referred to in the document. However, if the court system is not what we end up with as the end product here, then we'd like to know what the process is for obtaining the writ and that it should be a speedy process.

On the issue of privacy and notice of entry, we welcome any clarification on this, which is often the

source of friction between landlords and tenants. We have a couple of minor recommendations. One is that on the notice of entry for maintenance, if you could consider the idea that when the tenant has requested the maintenance, that notice of entry could be given verbally at that time.

If a tenant calls our maintenance department and says, "My window is broken," we will see that as an urgent matter, although not an emergency matter. If we're then obligated to give that tenant 24 hours' written notice, then we're causing them a disservice by lengthening the time that we can respond, whereas if they agree that we can go in tomorrow and fix the window and they don't have to be there to allow us entry, if there could be some way that we can get their agreement verbally and then go in and do the work, that would be helpful.

In addition, we would like clarification in the section on showing units to prospective tenants, which now states that it can be done at reasonable times. That also has been a source of friction, if a tenant feels that reasonable times are not what we consider to be reasonable times. There is a suggestion under another notice provision to actually state hours and I think if the hours were stated within the act, that would make it clear, hours such as 10 am to 8 pm or whatever hours seem reasonable to you. I could leave that up to you.

I want to talk briefly about the proposed anti-harassment section. It's our understanding in reading it that this appears to be intended to work hand in hand with the rent decontrol provisions. However, we just want to clarify that that would apply only in cases of harassments by landlords of tenants and should be clearly not used for issues between tenants.

#### 1310

I'm going to say here that I understand the issue of violence and we'll talk about that later. I think that's a separate kind of issue.

Landlords are often put in the position in disputes between tenants of essentially being a third party who has very little knowledge of what is happening. What happens is, a tenant says, "You must evict my neighbour," and we say okay and we go to court but really have no knowledge of what happens except between the two people and they're essentially the ones in court. We are only there because we're the ones who can write the notice and that's the way it's set up. The word "harassment" I guess rings some bells to us because we're not sure exactly how that could be used and we want to make sure that it's clearly identified as harassment of tenants by landlords.

On the issue of maintenance, there's a proposal to give landlords advance notice of failure to comply with property standards. We strongly support that landlords should have at least an opportunity to remedy. That part of the discussion paper wasn't quite clear because I wasn't sure if it was suggesting that municipalities could automatically fine without giving a landlord an opportunity to remedy, but it's a basic fairness of civil proceedings to give tenants a right to pay rent before evicting them and landlords should have an opportunity to fix a window before being fined or whatever the issue is.

The dispute resolution system was touched upon by the previous speakers. We obviously welcome the opportu-



ity to look at a speedier system. We agree that the current court proceedings are too slow. However, our belief is this is due to lack of resources in the courts and not inherent in the act. Our experience in the mid-1970s was that we were getting court dates the next week on 95% of our cases. That isn't the case today obviously. We caution that regardless of the system, it must provide for adequate representation by both parties. On this side, I guess we mean that tenants should have every resource that is available to landlords.

The suggestion of mediation is worth exploring. However, our assessment of mediation is that it works only if both parties agree to it. So it may not always be possible or it may not be desirable in cases where there are issues of violence, such as was mentioned before, where tenants are threatening either their co-residents or other tenants in the building.

The discussion paper indicates the ministry hasn't yet developed this system and we would encourage you to spend more time than perhaps this consultation allows to actually sit down with landlords, both social housing and private sector landlords and tenants and tenant advocates, to talk at more length about this system.

We'll touch just briefly on rent control because social housing providers are currently and, we assume, will continue to be exempted from rent controls, although the discussion paper doesn't note it. Although we're not directly affected, we obviously are concerned with housing for low- and modest-income people in our communities.

I'm sure you'll hear from the landlords that the decontrol of rents will not, in our estimation and I'm sure theirs, provide the stimulus required for the private sector to build rental housing. Land prices, cost of construction, property tax system, development fees and long-term investment requirements are some of the impediments I'm sure you will hear more about from the private developers.

In addition, the proposal to have rent control in place as long as tenants remain in their unit will impact those who must move due to employment, change in family circumstance or for reasons such as health and age. We give the example that a senior who can no longer manage stairs in her walk-up building will be forced to move and pay much more of her income in rent, and there are other examples. Generally this will affect those at the lowest income on the scale, who tend to be tenants.

Although we can challenge the private sector to build new rental housing, we cannot force it to do so and to provide housing which is affordable to low- and modest-income people. More than half the tenants in Ottawa are below the 30th income percentile, and we feel the removal of rent control will provide them with uncertainty without guaranteeing that the private sector will meet their needs.

In summary, we look forward to your findings and we hope that the issues we brought to you today are addressed. Thank you for your time.

**Mr Hardeman:** Thank you for the presentation. I just quickly want to point out that the discussion is ongoing as we speak with the landlords and the development industry and the tenants and tenant groups to talk about a workable formula for the dispute-settling mechanisms.

On the property tax, we've heard a lot about it in our presentations. There are a great number of things that need to be corrected to bring the private sector into the building business. One of the ones that seems to be coming up a lot is the inequities of taxation. Are the non-profits involved in that too? Do you have a problem with that.

**Ms Boucher:** Oh, you bet. It's an interesting thing and I don't want to have my friends in the co-op housing sector calling me when I leave here, but in the social housing sector there are essentially three types of animals, as we call them. There's the public housing sector, and I'm not really sure what their taxation system is, but in the social housing sector, which is made up of housing co-operatives and then municipal and private, non-profit corporations, the latter two, of which we are one, pay commercial realty taxes much as Mr Minto or Urbandale or anyone else, and those, as we know, are much higher than homeowner taxes. It's our second-largest expense in our budget as it is in any landlord's budget.

Interestingly enough, the housing cooperatives, which are funded under the same programs and operate much the same kind of housing as we do, which is subsidized, mixed-income housing, pay residential property-owner taxes. I guess they made a deal at some point in the past. However, in comparing in our case two identical buildings built at the same time, one a co-op and one a private non-profit, the property taxes add 16% to our operating costs versus the cooperative building, so it is a significant expense.

**Mr Alvin Curling (Scarborough North):** Thank you, Ms Boucher, for your presentation. As we speak, as the parliamentary assistant tells you, they are drafting legislation. As we speak, they have already attacked the people on social welfare, a 21.6% reduction in their income, making it more difficult to access affordable rent.

As we have spoken already too, 365 non-profit housing projects have been cancelled, making it even more difficult for affordable housing. As we speak, the landlords are saying they will not build, even if you take rent control off. What sort of impact has this had in your area on people who are most vulnerable for affordable housing? How is it playing out in your area?

**Ms Boucher:** After June 1995, prior to the government's announcement regarding the moratorium on social housing, we used to tell people who came to our office that they would have to wait somewhere between two and three years. We are now saying it's going to be at least five years. So right there, that's an impact to people who are on waiting lists.

**Mr Marchese:** You've raised many issues and I would have liked to touch on the issue of maintenance and the dispute system, but that takes too long so I'll touch on the last two points you made, and that is the whole notion of decontrol and how that affects some tenants who are likely not to want to move if they know they are going to get an increase somewhere down the line.

I think you pointed out that this will affect a lot of people: some seniors obviously; it'll affect students and it'll affect a lot of people who may be in abusive situations where this is a disincentive to move, where they will suffer in a situation that might be very complicated



physically or emotionally. So all in all, you would agree that's a problem for many tenants if we have a decontrolled system.

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**Ms Boucher:** It will force many tenants to remain in situations which are not optimum and in some cases may be dangerous. Yes, I agree.

**Mr Marchese:** You mention the other point about rent control and decontrol not being sufficient stimulus. We've heard from literally many, many people — except landlords, who like it — that it will not be an appropriate incentive for them to build. I think it's an important point that you raise, that many others have raised. If that's the case, why are we doing this?

**The Chair:** Thank you, Mr Marchese. Thank you very much, Ms Boucher. We appreciate your time here today and your input into our deliberations.

**Ms Boucher:** Thank you for your time.

#### OTTAWA REGION LANDLORDS ASSOCIATION

**The Chair:** Our next presenter is Valerie Wiseman, a member of the Ottawa Region Landlords Association. With her she has Marianna Fenton, Joy Overtveld and Suzanne Klein. Welcome to our hearings. You have 20 minutes. Should you allow any time for questions, they would begin with the Liberals. The floor is yours.

**Ms Valerie Wiseman:** My name is Valerie Wiseman. I am here representing the Ottawa Region Landlords Association, otherwise known as ORLA. I am also a rent control specialist and a member of ORLA. I am here with Joy Overtveld, lawyer. She's two down from me. She has a practice which focuses on landlord and tenant issues and rent control, and she's also a member of ORLA.

I'd like to introduce you also to two representatives of more than 41,000 who make up the average landlord in the Ottawa-Carleton area. Marianna Fenton sits to my right. She is the owner of a downtown heritage duplex. Suzanne Klein is the property manager for a visible minority landlord of a rooming house, also in the Ottawa downtown, and she sits on the end.

Marianna and Suzanne represent the majority of landlords in the Ottawa-Carleton area. ORLA felt that it was very important that you see the face of the average landlord and hear about their concerns. They will be speaking about two specific problems: chronically depressed rents, which was not addressed in this paper but is none the less an important issue for the Ottawa landlord; the other is the property standards offences that have been proposed. We feel they will lead to serious abuses by tenants who have and do harass landlords and other tenants in a building.

ORLA represents both large and small landlords. However, it is the small landlord who is most affected by chronically depressed rents and is most vulnerable to tenant harassment. The majority of landlords are small investors, owning fewer than six units, and according to Revenue Canada are not making a return on that investment. Far from making a profit, they are not even meeting their expenses and many are suffering from chronically depressed rents. At this point I'd like to refer you to pages 2 to 5 of our submission, which provide a profile of the average landlord in Ottawa.

In a province where 65% of the rental housing stock is over 20 years old, chronically depressed rents must be addressed. These landlords need revenue in order to make the required repairs. Some say that decontrol on vacancy will solve this. However, one problem that the landlord who experiences chronically depressed rents does not have is a vacancy problem. Those tenants aren't going anywhere.

Now I would like to turn this over to Marianna Fenton, who will relate her experiences as a landlord of a building that has chronically depressed rents, and then Joy will present the property standards issue and offer some solutions to this. I would also like to refer you to our submission, which outlines our position in further detail and provides testimonials from other landlords with similar problems to the ones presented here today.

**Ms Marianna Fenton:** In 1992, I bought a duplex with an inheritance from my grandfather for the purpose of hopefully building a nest egg for my family. The building was more expensive than I'd hoped, but the income stream from the two units was substantial, \$1,000 per unit, so I felt basically it could cover my mortgage, heat, hydro, water, tax, expenses. It is essential that the building carry itself. I'm a mother of two children and I was the sole income earner at that time.

I was proud of my purchase. I thought it was a good way to invest, not to spend my inheritance but to use it wisely. It was an immaculately kept heritage home located right downtown, in fact three blocks from here. It had a bevelled glass entry door, wonderful units including private cedar decks, en suite laundry, large floor-to-ceiling windows. It was in mint condition.

As a new landlord, I was learning, so I was in touch with rent control annually to confirm what my rents should be and also what the increase percentages were etc. In 1987, the former owner had registered the rents voluntarily with rent control, so my rents were being based on the information he provided. My tenants were happy and I was happy. Everything was proceeding fine. Out of the blue, in 1994, the ministry issued an order reducing the registered rent for one of the units from \$1,000 to \$300, where I, the landlord, would continue pay heat, hydro and water costs.

They based this order on a 20-year-old order that they had discovered as a result of a self-initiated search. No tenant had complained. I was initially stunned and then later shocked at the personal financial ramifications of such an order to me personally. My building was now worth \$100,000 less than at purchase, based on the income stream, when nothing else had changed. My unit — I still own the building — costs me three times more than the rent I'm collecting.

Upon rehearing, the ministry, despite \$15,000 worth of renovations by a previous owner, decided not to change its mind, and unfortunately, there's nothing else in the current legislation which could allow me to present my case and have the order overturned.

My tenants, meanwhile, are fully aware of the situation. I've kept them apprised. They do not attend the hearings and they sympathize with my ordeal and the ludicrous nature of the order. We talk about a lineup for 10 blocks next time it's for rent. Now I'm bound, due to



the law as it stands, to collect \$300 for this \$1,000 unit for as long as they decide to stay, which may very well be forever. I cannot carry the building much longer under these circumstances in any case, so I'm heading for personal financial disaster.

Basically I'm here to implore the ministry to include a provision in the new legislation which would address this type of situation. The law, the way it stands now, there's no common sense. People just are flabbergasted when I present what has happened to me. The law in this case is not fair or just. Thank you very much.

**Ms Joy Overtveld:** Smaller landlords cannot buy or maintain existing rental stock unless banks are willing to finance purchases, repairs and improvements. Banks do not provide financing where income cannot keep pace with costs and market value.

These are the providers of the majority of the private rental stock — small landlords. Vacancy decontrol is irrelevant for chronically depressed rents. These tenants never move. There is no means test for tenants. Many of these privileged tenants have much higher incomes than the struggling landlord. Marianna's family income is about \$20,000 a year. Her tenants earn \$60,000 a year. Without your help, this unit and many others will disappear off the market very quickly.

We have a proposed solution in the paper. It's a three-pronged formula. I'm not going to get into detail, but I would just like to say that Mr Leach specifically requested submissions on this topic at the annual meeting of the Multiple Dwelling Standards Association in June. It's in written form on pages 12 to 14 of our paper.

Briefly, it goes like this: For sitting tenants, where the rent in the unit is less than the benchmark — and for the benchmark you could choose market value assessment or you could choose the Canada Mortgage and Housing Corp average rent or some other accepted benchmark that is a public number, easily calculable by everybody — the landlord would legally be able to charge more than the annual increase. You would need three ways to calculate to fit the various situations because if you only had one way, for example, an additional percentage above the annual increase, you would have a catch-up rate that would go 20 years or longer.

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So very briefly, the proposal is a three-pronged one. The first one would give you a fixed percentage annual increase, and for example, in Marianna's case, where the market rent is \$1,000 a month and the legal rent is \$300 a month, if you used method 1, it would be a monthly increase of \$25 a month for the first year and the catch-up time would be about 20 years. That's too long.

Method 2 would be an additional fixed amount that you could add on top of the annual increase. This would be good, for example, in mobile home parks, a lot of which are also very destitute. This is a fixed dollar increase. This also would not be appropriate in a case like Marianna's.

There's a third option. The third option would be based on the size of the gap between the market rent and the legal rent or the current rent and there would be a catch-up phase. The proposal results in the catch-up period being somewhere between five and 20 years, depending

on the method you choose and you would choose whichever method was appropriate, depending on the circumstances.

The benchmark figures are public. There's no bureaucracy required to administer the calculation. It's accessible to the average citizen, and graduated over five years, a unit like this would have a much greater chance of staying on the market because refinancing would be possible. There would be no instant rent shock to the occupant as there would be if this unit gets taken off the market.

I'd like to introduce our second topic, which is property standards and harassment. We've associated these two topics, even though you haven't done so in your paper. One previous speaker has already addressed this issue.

First, I'd like to introduce you to the average landlord in the Ottawa-Carleton region, and I assume in the rest of Ontario. The profile of the average landlord in this region is addressed on page 4 — that's private, public, large and small, the percentages — of our paper, and pages 2 and 3 also give you some statistics and charts.

One out of every six adults in this region, 15% of our adult voting population, is either a landlord or a spouse of a landlord. That's a lot of people. So most of them own very few units. They control about two thirds of the existing rental stock, people who own less than a certain number of units, small landlords, and tend to have a socioeconomic profile identical to or very similar to the average tenant. They include semiretired tradespeople, pensioners on fixed incomes, the elderly, young families who could not otherwise afford to support a mortgage, visible minorities whose first language is not English, and a large proportion of women. The major difference between them and their tenants is that they tend to have a more permanent personal commitment to the local community because they are tied by property ownership, whereas the tenant population, as a previous speaker mentioned, is more transient.

You've proposed property standards provisions which would make landlords subject to ticketing offences without notice and you've also proposed harassment provisions in a particular context. Why could property standards and harassment be connected in some landlords' minds? Many tenants, not all — it is a significant minority, but it is a minority — use the system to prey on small landlords and fellow tenants who are unprotected. They use property standards and other methods to harass a landlord if they're behind in rent or they want an easy way out of the lease.

Remember the profile of the typical landlord. We're talking about women, retirees, pensioners on fixed incomes, young families with mortgages, and minority Canadians for whom English may not be a first language. These landlords are extremely vulnerable and have no defence against an abusive or malicious tenant who misuses the system.

Please meet Suzanne, who is property manager of a rooming-house here in town. If you'd like to see pictures of the rooming-house, they're provided in the report.

**Ms Suzanne Klein:** Hi. I'd like to share with you an experience that I had this summer, about six weeks ago.



I'm managing this rooming-house. A tenant moved in. He was very nice when he moved in, and I had no hesitation to rent to him. I soon got phone calls from the other tenants complaining about him. He used threats, he used violence. He would take the lunch out of one person's hand and toss it in the garbage. He was just unbearable to live with and most people would phone me up daily — a couple of them daily — to complain about him. I had no means of getting him out. He was a nightmare to live with. He terrorized the other tenants. He pushed one of them out of the kitchen.

I had no means of getting him out because the tenants in the building, most of them were too terrorized, they were too afraid to testify against him because he was still living here and they thought, "If we're going to court, my name is going to appear in court, and he's going to come up beat me up after that." So we had a terrible time to get him out. Police came. Police told me the solution to deal with the problem was to stay out of the building and not to enter the building any more. Then I couldn't do my regular job but I listened to police advice because I myself was too afraid of this tenant.

His girlfriend moved in in the meantime, one Saturday when I was working on a different part of the property. I didn't say hello to his girlfriend. Half an hour later, the front door lock was broken. There was a fire cover for the fire alarm system, its electrical was removed and a couple of other minor things. He phoned up the landlord and he says: "Excuse me, the front door lock is broken. This is very bad maintenance and when are you going to fix it?" Of course we got a locksmith in there. It was after hours on a Saturday. We paid \$200 just to get the keys exchanged and the lock exchanged. No problem.

When I read the new proposals on the law, I thought: Under the new proposals this tenant wouldn't have even bothered phoning up the landlord, he would have phoned up a property standards officer right away and said, "This building is very badly maintained." Like, he did his share to it but he phoned that property standards, or he could have under the new system. When you get your law together for the tenant protection legislation, think about people like that who are out to turn the law around and getting it used in their favour.

Luckily he left. He could be still there if he wanted to. He got out anyway. He left his room very messy. He broke a window. He used cat litter and piled dirty cat litter behind the toilet, and you know who's cleaning it up; it's not going to be him. There's no means of getting any money back from him because he's low-income, and right now he's taking the landlord to court for a rent control issue. He doesn't have a case, but we're still going to have to pay for a lawyer to go through all the motions because that's the way the law works.

I'd like also to point out on July 19 there was an article in the Globe and Mail that appeared and it said that now we have youth that have grown up in violent homes. I think it's page A7, the Globe and Mail, July 19. It says youth that have grown up in violent homes are now entering the workplace and making the workplace more unsafe. But they're not only entering the workplace, those people are also entering tenant agreements. They are entering society basically.

I think we have to find a way to protect landlords from putting all their energy and money into dealing with these kinds of people, cleaning up after them. Because then there is no energy and no money left to do any maintenance work, what we are supposed to do. We can't do what we're supposed to do because we're always cleaning up after those people. I also feel strongly, if you don't make provisions for protecting landlords from those kinds of people, the other tenants — because there's lots of decent tenants out there. I have lots of nice people that I'm dealing with — but those people who are out to abuse the law, they do live there and I don't think they're decreasing in numbers, I think they do increase, and you have to make provisions in the new law that protects decent people from that. Thank you.

**Ms Overtveld:** There's an affidavit in your report which is from another tenant in that building who says things like: "I also have rights. I have a right to a safe environment, which I don't feel that I have right now.... There is extreme tension in the air all the time. He is terrorizing all of us by tampering with things in the house. You never know, when you leave, whether the house is going to be there when you get back.... If this continues any longer, there will be no one left in the house, except [him].... We shouldn't have to sneak around like prisoners in our own homes...."

This is only one situation but there are countless others and they're recounted in our newsletters over the past 10 years. We've given you some excerpts of typical situations where landlords and the co-residents in a building are being terrorized by a particular tenant who is using the law to their best advantage and hurting other people as a result.

We have some suggestions on how to perhaps improve the situation. One of them is: By creating instant violation offences and removing notice provisions, you turn the tenant into an instant, unauthorized property inspector. If the landlord doesn't know about the problem or if the problem was recently caused by another, or in some cases, as was in this case, the same tenant, or if the problem relates to an area of the building the landlord has no access to, this is unfair punishment. Landlords require written prior notice of repair obligations before we waste taxpayers' money to send a property standards officer out to the building.

**The Chair:** Excuse me, unfortunately, your 20 minutes has expired and because we have a full day we have to be quite strict on the 20 minutes. We do appreciate your input today. Obviously, the rest of what you had to say is in your paper and we'll make sure we read that. We do appreciate your input. Thank you.

**Ms Overtveld:** Thank you. Our suggestions on harassment provisions were the last thing in the brief.

**The Chair:** Thank you very much.

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JOHN DICKIE

**The Chair:** We now invite Mr Dickie of the law firm of Yegendorf, Brazeau, Seller. Good afternoon, sir. We appreciate your attendance here. The floor is yours.

**Mr John Dickie:** Thank you. First of all, I apologize for being late and appreciate you rearranging the schedule



to accommodate me. My apologies. You should have a copy of the submission.

Briefly about my ability to speak to this issue, I've been practising rent control law for 15 years, and for the first number of years of that I represented tenants' associations. Then for the last number of years I've represented landlords, both large landlords and small landlords. During all of those periods I've been active in the interest-group activities of tenants and landlords respectively. Besides law, I do have an academic background in economics.

What my submission to you concerns is the way the rental housing market operates and then specifically the impact that the proposal for vacancy decontrol-recontrol will have. In other words, the discussion paper presents that the government, or the Legislature, will permit landlords to reset rents on a vacancy, but then once the rent is reset the guideline will apply. My submission to you is that this is seriously flawed. It will prevent landlords from taking advantage of the good times to make up for the bad times.

The economy has periodic boom times and periodic recessions. In the boom times under a market system the rents rise, in a recession they fall.

I'm going rather quickly through my paper and I'm on page 2.

Buildings also have a life cycle. When they are built they have new technology, like frost-free refrigerators, they have new finishes. The units are valuable. They command high rents. But then as the building ages, they're not so new any more and the rents fall off. So again, the landlord needs an ability to make money on the building when that can be done because it's not always there.

Turning to page 4, the historical background to rent control is that it was introduced as a temporary measure because of unusual economic circumstances.

From 1974-76, Canada experienced inflation at a rate not seen since the Korean War. Landlords who had entered into long leases needed major increases to catch up with inflation. At the same time there was a boom in the Toronto housing market, and that raised the demand for rental units.

Now, in the normal course building would have taken place and the rents would have moderated. But that was interrupted. Rent controls were introduced which significantly limited rent increases. Some owners are still stuck with rents that are based in large part on the rents that the buildings generated in 1972 or 1973, before this substantial inflation. Other owners were caught when there was the recession of the early 1980s; in the early 1980s rents fell off and then they were not able to catch up.

If you could turn to page 7, I've given an example of a composite building that illustrates the problems and gains landlords have experienced for the last 21 years. It is the most accurate picture I can draw for this committee based on my experience representing landlords and tenants. Without doubt, some landlords have done better than what is shown, but at least as many have done worse. Landlords don't like to come and tell you their exact financial situation; particularly they don't like to come when it hasn't been good and they're embarrassed.

No one wants to come and say, "Look, this wasn't a good thing I did, and this is what it is."

If you could turn to page 11, I'll just show you, very briefly, what the composite shows. This is a building affected by rent control in 1975. If you go down the left-hand column, the first section shows economic conditions, the consumer price index, the rent control guideline and so on. The next little section shows rental market changes, average rents and market rents. I'll come back to that. Then we have the total rent in a building, the cost in a building, the capital that's financing the building, the operating costs and the financing costs, and in bold there you see the total cost. When you compare the total rent with the total cost you see the cash profit or loss.

If you go back up to the section "Rental market change" — it's the second or third section, depending on how you count them — and you see the rows "Market rent" and "Average rent," if you trace your finger across to the right, the first figure you see is \$225, and then below that \$200. That's the situation many landlords found themselves in in 1975, and when rent control came in the average rent was held down to \$216, \$233 and so on, whereas the market rent had risen to \$248, \$267 and so on. Those were the good times when landlords should have been making money to compensate for the bad times, but they didn't. Their rents were held under the market. If you go on, you see later on, in 1981, that the market turned around and the market rent started to fall. At that time the legal rent couldn't go up, so the landlord was locked in to these low rents. The landlord didn't get the good rents when they were available; he got the lower rents later on.

I've introduced in here the example of the landlord doing capital work, because if a landlord did that, they could raise the rent. For 1982 you'll see there are two columns, and the second one shows a 17% rate increase because of a major retrofit to the building, keeping up with the building life cycle, as I mentioned.

If you go off to the right-hand column in my composite here, the landlord keeps the building for 10 years. At the end of the 10 years the landlord sells. First of all, notice that over the whole course of that 10-year period the accumulated profit or loss might only be \$2,000. Over that period, because of the good years being cut off, the landlord is not able to make money.

If you turn to page 12, you have to look at more than that in terms of the landlord's return. You have the landlord buying the building in 1978, and if you go down the left-hand column, the fourth group shows a sale price. I'm imagining the landlord buying a 20-unit building for \$280,000. Go down to the next group: Equity invested, \$53,000. Over the 10 years the value of the building will rise substantially. In the paper I explain the assumptions, which I believe to be accurate and fair. In 1985, one could expect a building to sell for about \$470,000, so there would be equity of \$170,000. That's the landlord's return. Tenants groups will tell you, "The landlords make all this money in the capital gain," but when you look at that, the total gain would be \$111,000. It looks good but it isn't, because the question is, what else could the landlord have done?



If you turn to page 13, if the landlord had put his money into, say, a mortgage fund and just gotten interest at the rate of mortgages, the landlord at the end of the period would have \$189,000. Going back to page 12, the landlord could have had a gain — under “Comparison of return” go down to the third line, “Growth in equity” — of \$136,000, but through owning a building the gain is \$111,000. So what’s the landlord’s reward for his risk, his or her work of being a landlord? It’s to make \$24,000 less than someone who just put their money into a bond.

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The same thing happens during the next time period. The one thing I would point out in the next time period, which is at page 14, if you look over to the right-hand column it’s the same set of figures. Looking in that row called “Market rent,” in the very right-hand column you see \$525, and average rent of \$525, but go down five rows and you can see “Average maximum rent” \$602. Because of the concept of legal maximum rent, this landlord, who hasn’t made any money yet — or at least hasn’t kept up with a bond — has an ability to raise the rent so that when times are good the landlord can actually make a return.

In the government’s proposal, and I turn to page 17, the government’s proposal is to eliminate maximum rent and introduce vacancy decontrol, but after the decontrol the unit will be stuck at the new rent. In that scenario I just showed you on page 14, the new rent will become \$525, the lower rent based on depressed market conditions we’re in today, and that landlord will never be able to raise the rent to make any money in the good times to catch up for the bad times.

My fundamental submission to you is that decontrol-recontrol, the government’s proposal in the discussion paper, will operate in a downward direction. It will prevent landlords from achieving the balance they need and it will ultimately be bad for tenants as well as for landlords. But my most recent experience is with landlords, and on that basis alone and their entitlement to make a return, I would suggest this proposal should be changed and maximum rent should be preserved.

I’m finished my presentation and will happily take questions.

**Mr Curling:** Thank you for your presentation. It provokes a lot of thought and needs much more than three minutes to go through some of the things you’ve put forward.

When there’s a new building on the market, there’s five years of no control. What happened to that time? You have not established anything in your paper.

**Mr Dickie:** My paper assumed that the building was built in 1965, so it was an existing building. In terms of that time, if a building had been built in 1991, today the landlord would still be in very deep trouble because rents have fallen since then and the landlord would have an enormous loss on an annual basis, let alone the loss that’s built up. A five-year exemption simply doesn’t do the job.

**Mr Curling:** Therefore, it’s not rent control itself; it’s the situation in the market itself that is causing this.

**Mr Dickie:** The problem is caused by two things: the situation with the market and the fact that when the

market rises rent control kicks in. It’s a double whammy. It’s not the market; it’s the market plus rent control.

**Mr Curling:** As I said, the unit has five years in which to find its level. In that time, if the rent is raised as high as possible, it gets locked in and then it rewards the landlord. Taking into consideration all the operating costs, a decent kind of profit can be made. That’s why the guideline comes into place at 2.8% or 2.6% or so. It depends, as you said, very strongly on the market, not on rent control.

**Mr Dickie:** But the two work together. If the market were smooth, then rent control could work, but the market isn’t smooth, so rent control cannot work.

**Mr Curling:** That’s the way of investment. Markets are never static anyhow, you know.

**Mr Dickie:** Of course, but the damage is done when you cut off the good, and particularly when you cut it off permanently. That’s what the proposal will do. That’s what the decontrol and recontrol will do.

**Mr Marchese:** Mr Dickie, I don’t want a long history, but a brief explanation. You represented tenants for 15 years.

**Mr Dickie:** No, for about six or eight years.

**Mr Marchese:** Then something happened and you decided to change that.

**Mr Dickie:** That’s right. I chose to reorient my practice. I was in on the tenants’ side. When I acted for tenants, I acted loyally for tenants, I represented what tenants groups thought their interests to be and I acted on a professional basis. The landlords respected that and so did the tenants.

**Mr Marchese:** I understand that. So you’re advocating for a system that should be decontrolled. You agree with that.

**Mr Dickie:** Yes.

**Mr Marchese:** On the other hand, you also would like to have the maximum rents kept. You want both of these things.

**Mr Dickie:** That’s correct.

**Mr Marchese:** Decontrol because it’s important for the landlords, and keep the maximum increase so as to allow them to catch up some.

**Mr Dickie:** That’s correct, and for tenants what should be done is shelter allowances and non-profit housing directed to people who need it. We shouldn’t be doing it through the rent control system.

**Mr Marchese:** I understand. Part of the point you’re making is that many of the landlords are not making any money, which is interesting. If that is the case, I argue, they should get out of the business. On the other hand, what we do know from reliable sources is that there has been a 10% rate of return. It’s a good business to get into, it was reported in the Globe and Mail, because of the 10% rate of return. It seems to me they’re doing okay. What you’re advocating, what they’re advocating, the Conservatives as well, is for a system that will profit the landlord by and large, and what you are proposing with a maximum increase plus decontrolling is even more rich for the landlord. That’s something I can’t support.

**Mr Bart Maves (Niagara Falls):** Thank you for your presentation. Going back to Mr Curling’s comments, in a depressed market, quite simply, you’re getting a low



level of rent because the market won't bear much, but in a better market you can't take advantage of what you lost in the depressed market because of rent control.

**Mr Dickie:** That's the proposal. Under the current law, with maximum rent intact, the landlord can catch up. That's one of the best features of the current law.

**Mr Maves:** What proportion of landlords right now are renting their units at below legal maximum?

**Mr Dickie:** In Ottawa-Carleton it's about 85% or 95%. In Ottawa-Carleton the market has not been good for landlords for the last four or five years, and the vast bulk of units have market rents that are below their legal maximum rents. Fine, landlords live through that in the bad times, but then in the good times they want to catch up. I grant you, there are 15% or 10% of the units which have legal rents below the market. These are chronically depressed rents. These are rents where tenants of course love the units and want to stay, and the vacancy decontrol won't benefit the landlord in that case because the tenants will tend not to move out. Some of them will, but they will tend not to. I cannot believe a rate of return of 10%. If it is, you still have to compare that with the economy and what rates of return are in other investments; 10% in inflationary times is not a good rate of return.

**Mr Bruce Smith (Middlesex):** You raise an important issue because Mr Marchese has identified the results of a survey. In fact, that survey included just 24 rental properties in the province. I'm not suggesting that test is inappropriate, but I think it would lend some consideration to the numbers being used. During that period of time, we actually saw a rate of return ranging from zero or virtually zero over a 10-year period to as much as 30%. So I think there's some caution that needs to be used when we're referring to that 10% rate of return.

You've given us a considerable number of numbers with respect to capital expenditures. Have you given any thought to new tests of eligibility for capital expenditures, a new means test, anything in that area? I'm specifically drawing your attention to that portion of the report that addresses capital expenditures and their calculation.

**Mr Dickie:** Yes, certainly. It would be important that there not be an eligibility test. Under the current system, eligibility is one of the things that occupies a considerable amount of hearing time in a number of cases, and to have speedy hearings, to have quick determinations, which everyone wants, including tenants, it's essential that the landlord be able to determine what is appropriate in the building, be able to implement that and that then a cost pass-through be given. The cost pass-through and the market are what mean the landlord will not waste money and do things that are not appropriate.

**The Chair:** Thank you very much, sir. We appreciate your input this afternoon.

I would just like to make one comment here. It's difficult for the presenters to sit up here and make their positions known to us, not a position that everybody's going to agree with. I would really ask the help of the audience. Let's not get into an applause contest about who's right and who's wrong. We're here to listen to the presenters. It's easier for them if we keep our comments in the audience to ourselves. I'd appreciate your help on that one.

1400

## ONTARIO NEW DEMOCRATIC YOUTH

**The Chair:** Our next presenter is Jennifer Smith, from the Ontario New Democratic Youth. Welcome to our committee. The floor is yours.

**Ms Jennifer Smith:** Good afternoon. My name is Jennifer Smith and I'm representing the Ontario New Democratic Youth at this hearing. The ONDY is a group of working youth, of high school students, of post-secondary students and of union youth in Ontario.

Many of us have become involved in the NDP after years of activism in our respective communities or our unions. We have a stake in the health of our province's economy and in the fairness of the legislation which impacts upon us.

Partisan politics aside, whether one is a New Democrat, a Liberal or a Conservative, it must be acknowledged that this legislation will have important effects on the young people of Ontario. This presentation will focus on working youth and students. The ONDY is concerned that one of the groups which will be hit hardest by this legislation is not being fairly represented. I speak out of concern for my own financial future and that of my friends and peers. I ask you to seriously consider the ramifications of rent increase and deregulation on working youth and students.

Vacancy decontrol, which is the major proposed change to the Landlord and Tenant Act and which would allow landlords to charge whatever they wish on new and newly vacated rental units, will have an extremely negative effect on young renters and students. Mine is a generation which does not expect, as many of you likely did, to enter full-time, long-term employment providing job security, built-in opportunities for advancement and consistency of lifestyle. Many of the young people I know have completed degrees and internships and still envision only part-time, contract or inconsistent employment, and many are not working in their intended fields.

University students are facing tuition increases of 20% and more this fall, and changes to the Ontario student assistance program and federal student loan programs are placing young people intending to pursue a post-secondary education in a precarious financial situation. In an economic climate such as this the lifestyles of students and working youth are in a constant state of flux. Should a new campus or city provide an opportunity for an unemployed or underemployed young person, most of us are not in a position to pick and choose. If a young person is having difficulty finding work or educational opportunities in a small rural or northern community, a move to the city is often seen as an answer. I make this point out of personal experience. Approximately 30% of Ontario youth leave their family home following high school to attend post-secondary education in another region. Some young people are forced to leave their homes to escape an abusive domestic situation.

On average, more than one in five, or 20%, of rental units in Ontario are vacated or occupied by a new tenant each year. We've heard numbers even higher than this today. The young people whom I have just described make up a substantial portion of these transient tenants.



In fact, many young students move two or three times a year in correlation with the school term. Vacancy decontrol means that these young people would be hit doubly or even triply hard by rent increases. Under vacancy decontrol, tenants would be penalized for moving to look for work in a new region, for working a summer job in one city and attending post-secondary education in another or for seeking to upgrade their qualifications at a different post-secondary institution.

Considering that this is a government which claims to encourage youth initiative and entrepreneurship and which tells us that we must make additional efforts to find opportunities in an unfriendly job market, the imposition of vacancy decontrol is an inexplicably counterproductive move for the government to undertake. Young people will be disproportionately affected by vacancy decontrol.

Subletting is another area which will have ramifications for a lot of young renters. Most renters sign a lease for a period of a year or even longer. However, as I've just explained, many young people find it necessary to leave a residence before the lease is up or for a few months during the period of the lease. Subletting, which is an agreement in which the original renter continues to pay the rent to the landlord but is reimbursed by a substitute resident, provides a framework which is convenient for all parties. It results in no loss of rent for the landlord and little or no loss for the original renter, and it maintains relative consistency of the landlord-tenant relationship.

The ministry is considering the cancellation of the current subletting arrangement simply so that more tenants will be forced to cancel their leases, allowing landlords to declare vacancy and increase the rent through vacancy decontrol. There is no other valid reason for the termination of this arrangement.

The Ontario New Democratic Youth feel that the proposed freedom for increase through vacancy decontrol provides landlords with more than sufficient opportunity to increase their rent. Considering the importance of the current subletting arrangement for many young renters, we feel that this added opportunity for landlords to increase is unnecessary and that the termination of the arrangement will be a severe blow to a lot of young renters.

The rental agreement negotiation process will also have an effect on a lot of young people. Lack of information and harassment could be a problem. Many tenants, and particularly young or first-time renters, don't have a sufficient knowledge of their rights and also of the responsibilities of the landlord. If we are forced to negotiate our rental agreements without guidelines for increases or structured deals, which I will discuss later, we run the risk of being exploited by a landlord. In negotiations between a landlord and a young or a first-time tenant, there's an imbalance of power, an imbalance of experience and also of understanding of the regulations. In my experience and in the experience of many of my acquaintances, such exploitive deals are common enough right now.

Many groups have voiced concern that in a low-vacancy climate, sitting tenants will be encouraged,

possibly through harassment, to leave so that the landlord has the opportunity to raise the rent without restrictions. This is of particular concern for young people and young women like myself. In the words of the Federation of Ottawa-Carleton Tenants Associations: "We would like to believe that the anti-harassment measures would work, but we have seen how poorly our government has enforced legal rents and punished cheating landlords. This window dressing only acts as a defence for legislation — not for tenants."

Without the guidelines for us to use as leverage in negotiating our rental agreement, young people will face problems when trying to find fair and affordable rental accommodations.

Also, many landlords request income projections for prospective tenants. I have already provided you with a profile which corresponds with the financial and the personal situation of many young people in Ontario today. It is virtually impossible for many young people to make projections of our future financial situation. This, along with the credit checks done by many landlords, automatically eliminates many young people relying upon contract or short-term work, student loans or social assistance from acquiring a significant portion of the rental units on the market. With a low vacancy rate for affordable units, landlords will be able to pick and choose their tenants to a degree which will cause serious problems for many low-income youth and visible minorities.

There are also personal and financial costs of complaints and enforcement, and we feel that this will have a particular effect on young people. With either a number of part-time jobs, an ongoing job search or a full- or part-time course load, young people and students are under considerable stress, financial and personal. The time, money and energy required to launch a complaint against a problematic landlord is often sufficient to prohibit a young renter from following through.

The suggested application fee for the launching of a complaint may be one way to guard against the frivolous applications described in *New Directions*, but it would be a major prohibitive factor for young tenants with legitimate concerns about their living standards. The Ontario New Democratic Youth support the suggestion of the Canadian Federation of Students — Ontario that a mechanism similar to those used in the court system to prevent such frivolous applications be adapted to this dispute resolution system for rent control.

Structured deals are another area where youth are particularly susceptible to exploitation. Vacancy decontrol and general deregulation of the rental agreement guidelines in Ontario will permit landlords more freedom to make structured deals regarding maintenance. Perhaps I'm mistaken, but I've been under the impression that we pay rent to cover maintenance and that if rent is paid, a landlord is obligated to keep our homes in a safe, livable state. I have personal experience with landlords who seem to think that fumigation, minimal painting and operational ventilation systems are luxuries which merit an increase in rent or an additional charge or some sort of labour on the part of the tenants, for instance, painting.

Since 1986, an annual 2% may be added on to the annual guideline to provide money and incentive to



maintain buildings. Thus, in 10 years, this bonus has caused rents to increase 17.6%, an increase which is intended for maintenance only. Using the standard estimate of \$10 billion annual rent paid by tenants, there is currently a total of \$1.76 billion in current rents which is intended for maintenance only. It is ludicrous to suggest that landlords need to increase rents further in order to maintain their properties. The Ontario New Democratic Youth do not feel that landlords should have to be enticed with extra financial incentives to encourage them to fulfil their obligations and maintain our homes safely.

Shared accommodation and arrangements like that will also have an effect on young people. The sharing of rental accommodations is an important way in which young people can find affordable and flexible rental accommodations. Aside from the potential problems which would result from a landlord being anxious to declare a unit vacant in order to increase the rent, shared rental arrangements may provide landlords with the opportunity for some creative structured deals.

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Additional residents sharing the rent on a unit do not increase the cost of operation for the landlord; they simply decrease the share of rent which each resident pays. I'm in one such arrangement, and that's what makes my home affordable for me. Permitting structured deals could open up rental agreements to the possibility of landlords instituting a per person charge. With temporary subletters and additional tenants moving in and out of the unit, the landlord would be making a substantial amount of money which is no way reflected in a corresponding change in either maintenance costs or inconvenience for the landlord.

This proposed legislation provides no clear guidelines on when precisely such a unit could be declared vacant and subject to a rent increase. It also does not protect young renters from the excessive expense of per person charges.

The real problem here is the lack of new affordable rental accommodations. The stated intention of the proposals put forward in New Directions is to stimulate the creation of new rental units in Ontario. As far as we can see, however, the current proposals are designed to stimulate creation of condominiums and middle- to high-income housing rather than to make more low-income housing available.

The proposed axing of the Rental Housing Protection Act, the RHPA, will contribute to this imbalanced creation of new units. The ministry itself states that the purpose of this act is to "prevent the loss of rental housing stock through conversion to other uses, demolition and renovations." It makes no sense for the government to scrap the RHPA if the intention of these proposals is in fact to stimulate the creation of new units, particularly when the lowest vacancy rates are to be found in the low- to middle-income area.

It also made no sense for this government to kill non-profit housing. A disproportionate number of low-income youth cannot find affordable accommodations because of this decision. Between 1991 and 1995, 12,600 social housing units were built under this program. New private

rental units contributed only 800 units during the same time. The cancellation of non-profit and cooperative housing programs will leave some 34,000 households on a waiting list in the Metropolitan Toronto area alone. This is from the Canadian Federation of Students — Ontario paper, *New Directions or Wrong Turns?*, an examination of student housing.

We also have concerns about continued commitment to the dispute resolution and enforcement process. We're concerned that although the government has made proposals for a revamped dispute resolution process and enforcement process, such a proposal would be of little use to tenants without the staff and resources to make it work effectively. The day before New Directions was released, the Federation of Ottawa-Carleton Tenants Associations staff was reduced from three to one. How are youth and first-time renters supposed to establish fair rental agreements and make application to the dispute resolution system without the support and resources of tenants' associations, federations and other organizations?

Anyone who has followed the approach of this government to cutting the staff and resources of other ministries would be sceptical at best in their belief that the budgets will be there for the new dispute resolution and enforcement units to function with any degree of effectiveness.

As I've already discussed, one of the major barriers to young tenants asserting their rights is the fact that many young people simply do not know their rights and are not aware of the proposed changes. In addition, young people are not organized, as some of the landlords and senior groups we have seen here today. The Ontario New Democratic Youth feel that a tenants' rights education campaign geared towards young or first-time renters would be a very important initiative to undertake. We've already heard suggestions like phone lines and Franco-Ontarian-accessible services. The problem of tenants' lack of information is not addressed in New Directions, and we would like to see it included in future proposals.

**Mr Howard Hampton (Rainy River):** Thank you, Jen. I want to go back over something you mentioned earlier. The government makes a big to-do about its anti-harassment proposals and that it will provide a staff of people to ensure that the anti-harassment sections are enforced. To date the government has cut the number of health and safety inspectors; it's cut the number of people who will enforce orders for child support; it's in the business now of cutting the number of hospitals and health care workers and cutting the number of teachers in our schools. Do you have any confidence that these enforcement people would be available, given what's happening elsewhere in terms of public services?

**Ms Smith:** I have very little confidence that the government will continue to support organizations which offer resources for young people who may not be aware of their rights or of the process through which they can enter the dispute resolution system, especially when you look at the staff cuts to tenants' federations, to the rent control offices and to agencies like the off-campus housing offices on university campuses. That's a big concern for us. I don't feel the harassment guidelines are really going to have that much of an effect, considering the massive risk of harassment for young tenants under vacancy decontrol.



**Mrs Margaret Marland (Mississauga South):** First of all, Jennifer, I want to congratulate you as a young person coming before a formidable committee and hearing like this and speaking as articulately as you have — not that I, obviously, can agree with everything you've said.

You talked about what the root problem is and you said that the root problem is the lack of new rental stock. Going back to prior to 1975, which may have been before you were born — I don't know; I'm not presuming that — we didn't have rent controls prior to 1975. We did have young people, we did have university students seeking accommodation, but we also had people in Ontario who were willing to invest their own money, as you heard earlier this afternoon, people investing money in fewer than six units. They weren't the big, wealthy, multimillionaire landlords, they were ordinary people, and we saw some ordinary people here today. Then we had rent controls that were brought on by our government in 1975, but not on new buildings. When the Liberals changed that to expand to new buildings in 1986-87, for the first time we started accumulating the huge problem of available rental stock.

I really would like to ask you whether you feel that having had rent controls overall has served the public interest, because now we have deteriorating rental stock and, as you say, we don't have any new rental stock. How have rent controls helped if we have a worse situation than we did 20 years ago?

**Ms Smith:** I would like to ask you how repealing the RHPA will help create affordable housing starts for young people in Ontario.

**The Chair:** I'd love to hear the answers to all those questions. Unfortunately, we don't have any time.

**Mr Patten:** I might just remind Mrs Marland that in 1986 the government of the day was still building some rental housing at that time.

**Mrs Marland:** At public expense.

**Mr Patten:** Yes, but there was housing.

By the way, I would share the sentiments and congratulations for your presentation.

I'd like to expand your scenario a little to highlight what I think part of your message is, and that's the special pressure on students: an increase of 20% in your tuition and possible increases in rental. What do you think will happen to university residences, for example? I'm trying to think of very tight markets and the pressure, with less money for universities and less money for colleges, on those institutions to balance their budgets, so you get an increase to the students for tuition fees, plus other things. Do you not think there will be pressure for them to jack up the price on students when they leave one year and then come back the next? Your scenario suggests you may see four increases if you happen to be a student going back to your residence.

**Ms Smith:** Exactly. The prices of residences are definitely going up right now for a lot of university students, so students are being forced to move out into the surrounding private rental units and are going to be subject to vacancy decontrol there as well.

**The Chair:** Thank you, Ms Smith. We do appreciate your input today and coming forward with your ideas.

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## REGIONAL GROUP OF COMPANIES INC

**The Chair:** Our next presenter is Jeff Gould, senior vice-president, the Regional Group of Companies. Good afternoon. The floor is yours, sir.

**Mr Jeffrey Gould:** My name is Jeffrey Gould. I am senior vice-president with the Regional Group of Companies Inc. It's a company having its head office in Ottawa. I have been involved in property management since 1969 and have been with Regional Group since 1981. Prior to Regional and with Regional, I have always been involved as a third-party fee property manager.

When I started to put together what I thought I wanted to say today, it came to my mind that I guess I had forgotten how we got into this whole situation. I don't know whether others have done it, but I'd like to take a couple of minutes and look at a little bit of history.

To refresh our memories, the introduction of rent control in Ontario in 1975 was an example of legislation aimed at short-run objectives which contained the seeds of long-term disruption. To the tenant, the appeal was direct and the payoff immediate in reduced monthly rental payments. To the politician, controls translated into guaranteed votes, a lure that was irresistible. Forgotten in the scramble were the lessons of past experience: the long-term welfare of city residents, the right of the landlord minority and, last but not least, the elementary principles of the behaviour of our economic system.

Let us take a moment to review the chain of events which brought forward the legislated control of rents in 1975. Since Toronto was at the centre, the story focuses there.

In 1960, Toronto was a city with a population of 1.7 million people whose residents predominantly lived in single-family housing. In the next decade, the city underwent tremendous growth. It had a great attraction for large numbers of new immigrants arriving yearly in Canada as well as those seeking a higher level of opportunity within the country. As a result, Toronto was transformed into one of the major cities of North America.

Increasing its population by 35% in a decade, the proportion of residents living in apartments and row housing rose significantly, approaching half the population by the early 1970s. In the mid-1970s, the growth of the city's population slowed, falling from its 3.4% rate of increase in the 1960s to approximately 1.3% annually.

The question could be asked, then why were there no calls for rent controls heard until 1974? In every year from 1960 to 1973, the relative cost of renting accommodations decreased. Only in 1974 did this pattern briefly reverse itself, with rents rising faster than the cost of home ownership. By 1974, relative to their relationship to home ownership in 1963, Toronto's rents had fallen by 30%.

To understand the historic rent pattern and also the outcry of 1975, we must consider that rent increases over the 1963 to 1974 period almost invariably were lower than the overall inflation rate. In fact, statistical analysis shows that the average growth in rents was only some 80% of that in the real price level. Thus, from 1963 to 1974, not just the relative but also the real cost of rental accommodations in Toronto were falling.



In 1974, however, unprecedented inflation took place, with prices spurring by 10.9%. Despite the fact that rents in 1974 rose by only 8.3%, the shift from the historical nominal levels was pronounced. With these rent upsurges, calls for legislation to parallel the federal government's wage and price controls became vocal and seemingly irresistible. Assurances were of course provided that these would only be temporary and would expire with the general controls.

"We do not believe in permanent rent controls. They have been a disaster everywhere they have been tried. They have already distorted the whole housing market in Ontario." This is what former minister Sidney Handleman said in 1976 when he was minister responsible for rent controls. That was just a year after rent controls were instituted in Ontario as a temporary measure. "We haven't any intention of using controls as anything other than a short-term solution. That is built right into the legislation." Mr Handleman was referring to the provisions in the 1975 Ontario Rent Review Act, which provided the controls would last only 18 months.

It is interesting to note that the politicians were advised that the effects of rent controls in Ontario would be no different from in other rent-controlled jurisdictions around the world. These include the decline of rental income, the collapse of new rental construction, a chronic housing shortage, the decline of apartment values, conversion to condominiums, a progressive tightening of the control regime to prevent such conversions, massive increased government housing expenditure to meet the rental shortage, decline of maintenance and the beginning of dilapidation. Also impending would be municipal property tax increases for homeowners as the tax burden shifts from the landlord on account of declining rental incomes and apartment values. Politicians and housing bureaucrats claimed this wouldn't happen in Ontario, but it did.

It is interesting that back in 1975, when rent controls were introduced as a temporary measure, Toronto was experiencing a tight rental market situation while Ottawa was suffering through a soft residential rental market. Here we are today, in August 1996, looking at proposed changes during a time when Toronto is again experiencing a tight rental market and Ottawa is suffering through a soft residential rental market.

It has been argued time and again that what may be happening in Toronto must not and should not be an influence over all other areas in the province, but reality being what it is, Toronto seems to influence.

Regardless, I am pleased to hear that the Minister of Municipal Affairs and Housing, Mr Leach, has acknowledged that the current rent review legislation is flawed and in need of change. It is well known that the controls have been falling all over North America, with New York being one of the only significant remaining jurisdictions with controls still in place. New York is not my idea of an example to follow.

Here we are, 20-plus years later, and we are still looking at ways to make bad legislation better. When will it truly be realized that to tamper with bad legislation only creates the same bad legislation with a different cover? We have seen over the years how different

political parties have changed the legislation, each time hearing that it is for the best. The best for whom?

Reality, however, prevails, and we must now look at the recommendations presented. I do not perceive myself to be a genius and therefore I don't think I will be saying anything different from that which you have probably heard several times in the last week to 10 days.

When I first started to read the paper, I was a little uncertain as to the decontrol proposal but felt that maybe it was the way to go. Then I realized that following the decontrol was the recontrol. What a step backwards for those of us in Ottawa or other centres with soft rental markets. The maximum rent concept is more acceptable. Perhaps, just as we saw in the mid-1970s, Toronto was creating the legislation. Ideally, once a unit becomes vacant, then it should become decontrolled.

As an alternative, beginning with the October 1995 CMHC rental survey, any census metropolitan area whose vacancy rate is 3% or greater should be in a position to have vacant units become permanently decontrolled — plain, simple and easily understood.

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It is also interesting that some years ago the new concept of a cap came into play. Now everything has a cap associated with it. Landlords and tenants will be able to negotiate above guideline increases up to the level of a cap. Capital expenditure increases will be capped at 4% above the guideline and the two-year carryforward provision will be continued. I wonder if anyone has really taken the time to calculate what all this truly means when a landlord faces a one-half-million-dollar bill to repair balconies or garages. Not an awful lot.

We know that we have a deteriorating residential rental stock, but there does not seem to be any incentive for landlords to take proactive action to deal with these concerns. Have we not yet learned from past experiences? Let the market operate as it should.

The discussion paper states: "Tenants expect for their rent that they will have well-maintained and safe homes. On balance, most landlords look after their buildings. However, from time to time there are serious health and safety problems that go unremedied." The paper goes on to state that the current system does not create any incentives for landlords to put money into maintenance and that tools for enforcing property standards are inadequate. The discussion paper also asks the question if there should be a requirement that owners be notified in the event of a tenant-initiated inspection prior to a work order being issued or charges being laid so that owners have a chance to fix the problem.

Firstly, I do not see where there are any incentives in this current paper for landlords to complete the required maintenance on their buildings. Sure, it is said that a market rent can be created when the unit becomes vacant, but what happens when there is a soft rental market and newly established rents will not allow the movement to future market rents should the market become tighter?

Secondly, has anyone thought to consult with the local maintenance standards officers for their input into proposed changes? I believe that if they were consulted they would say the current system is operating satisfactorily. The rapport and communication is there with the



good landlords and the changes may be made for those who refuse to comply with a work order. I was taught that the Canadian legal system provided that one was innocent until proven guilty. This proposal presumes that the landlord is guilty until he may be able to prove himself innocent.

I will not deny that there are some landlords who may not be as reputable as others, but let's look at the other side of the coin. There are many tenants today who know the laws backwards and forwards and play them to their fullest. These are the tenants who not only cost landlords hundreds and thousands of dollars but jam up the system, with resulting additional costs. Consider for a moment how the maintenance standards proposal will be played and manipulated by these tenants. Action can be commenced even before the landlord has had an opportunity to correct it, and potentially even before the landlord has been notified of the problem. I believe that property standards officers are comfortable with the current system and would prefer to continue that way.

Before concluding, I would like to mention that we continue to hear the term "affordability." I acknowledge that there is an affordability concern with a portion of our population and that for such people, housing costs absorb a large percentage of their income. These people, however, have affordability concerns in all facets of their lives and it is unjust and inappropriate to single out our industry as a means of solving the problem. The fact remains that over 80% of Ontario's population does not have an affordability problem and to keep using this argument as a justification for rent controls, even as now proposed, is simply not backed up by facts. We have always in the past and will continue to support any positive action taken to provide assistance to those people who require assistance.

In conclusion, thank you for the opportunity to express some of my concerns on this discussion paper. I have touched very briefly on only a few of these concerns, hoping that others will deal and have dealt not only with these concerns but with the many other concerns which this paper brings to the table.

I am somewhat encouraged by this paper, but without some changes and modifications, we may just be adding another chapter to our 20-plus years of rent control history. Thank you.

**The Chair:** Thank you, Mr Gould. You've got two minutes per caucus for questions, beginning with Mr Maves.

**Mr Maves:** Thank you, Mr Gould, for your presentation. I have noted on your one page the effects of rent control. In several studies I've looked at they all predict the same thing, and basically it's happened everywhere. One economist in Stockholm said that the quickest way to destroy a city, other than a bomb, is rent controls. Your effects that you've elucidated there are similar.

CMHC tells us that right now in Toronto about 30% of the rental market has substantial enough income that they could become homeowners. They're not becoming homeowners. Is that because they are able to live quite cheaply under a rent control system? If we had decontrol, in your view, do you think a lot of those would move

into home ownership and make the vacancy rate increase in Toronto?

**Mr Gould:** Most definitely. We've always said that rent controls keep the rent levels down and those who are in the low-rent or the chronically-depressed-rent units are going to continue there because there's no incentive for them to move.

**Mr Maves:** In your experience, is it low-income people who are in those chronically depressed rental units, or is it higher-income, stable people in those?

**Mr Gould:** I can't give percentages, but I can say from experience that it is not the low-income people generally, in our units, who are in some of the lower-rent units. These are middle-income-and-above people, many with very good jobs, who have just no intention of moving because of the economic situation the low rent provides for them.

**Mr Grandmaître:** You gave us a brief history of rent control in Ontario and you also admitted that the rental market in Ottawa-Carleton is very, very soft. What would be needed to stimulate investors, developers like yourself and managers like yourself to build more rental units in the Ottawa-Carleton area that would be affordable to people who pay more than 30%, 35%, 40% and sometimes 50% of their revenue to their rent? What would be needed to build more units?

**Mr Gould:** I am going to, if I may, decline to answer that question. I am a property manager. I am not a developer or a builder and I have never really spent the time to properly answer that question.

**Mr Grandmaître:** But you won't be in business too long if nobody builds buildings or rental units. I realize that you also manage commercial buildings, but the commercial business in Ottawa is not that great, so what will be happening to you and your people?

**Mr Gould:** There will always be rental accommodation. Hopefully, people will come to the light and create the situation that we can take our existing stock and bring it up to standards where it should be. I don't want to go back in history, but if we create the economic climate for development, for growth of buildings, then we get the natural progression that we had in the past, where people are moving up through the rental process to the home ownership process. There would always be sufficient housing for those in need, either through shelter allowances or subsidies, and our buildings would be in better condition to accommodate the tenants.

**Mr Hampton:** I want to follow up on something one of the Conservative members was asking. You agreed with him that there are people living in rental accommodation who could afford their own homes. I don't understand what this legislative package would do about that so-called problem. It would seem to me that those people, if they are the problem you've identified, would want to continue to stay in those apartments.

**Mr Gould:** I made a statement based on the question. I am not making a statement that —

**Mr Hampton:** Just logically, wouldn't you agree with me that —

**Mr Gould:** Potentially, they could stay, yes.

**Mr Hampton:** They would want to stay in those apartments?



**Mr Gould:** Yes.

**Mr Hampton:** So this package does nothing to —

**Mr Gould:** That's one of the weak points in the package.

**Mr Hampton:** Okay. I want to ask you a follow-up question. If you were building a new product — let's say you were building a new car — and you wanted financing, the bank would want to see your business plan, wouldn't they? How many people would be prepared to buy this car etc?

**Mr Gould:** I would presume so, yes.

**Mr Hampton:** Isn't the problem that when a developer or someone goes to look for financing now and they put in all their construction costs etc, and they're asked, "How many people could afford this cost ratio?" the fact of the matter is there's no market for that? Isn't the problem that it's not a question of supply, it's a question of demand? There are a whole bunch of people out there who can't afford to pay what the market would require them to pay. Isn't that the problem?

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**Mr Gould:** That may be part of the problem, but there are other parts to the equation as well. I think part of the concern today is that even if you go to the bank or the finance company and try to project your rents, you have no idea what you're projecting, because either the market is playing or it's not playing. The costs of construction have to have a bearing on that. We can get into a whole myriad of others, the development costs etc. It's such a mishmash right now, it's very difficult to define it.

**The Chair:** Thank you, Mr Gould. We do appreciate your input into our discussions.

#### STORMONT, DUNDAS & GLENGARRY LEGAL CLINIC

**The Chair:** Our next presenters represent the Stormont, Dundas & Glengarry Legal Clinic, Etienne Saint-Aubin and Bernadette Clement. Welcome to our committee. The floor is yours.

**Mr Etienne Saint-Aubin:** Thank you. My colleague Bernadette Clement and I are both lawyers with the SD&G legal clinic in Cornwall. As lawyers, perhaps we should be used to the adversarial process where one side is pitted against the other and the outcome is supposed to determine the best result. But we come before you today hopefully free from the confines of that approach. We would like that our presentation be taken in the context of striving to see enacted what's best for the people of this province, and we would like to believe that's what this committee wishes and what this Legislature wishes. It may be naïve for us to hope that approach will be free from ideology and partisanship.

Our submission in a written form is fairly extensive and, as a clinic which has provided services in both official languages of the courts of Ontario for the past 15 years, it is presented in both English and French. Our oral presentation will be, in effect, an overall summary. We've taken, for example, seriously the request to contribute specifics on detailed issues. We won't go into all of those.

It may come as a surprise to some, therefore, that it is our considered opinion that the proposed tenant protec-

tion package is a move in the right direction. We do have concerns and reservations, and this submission will endeavour to put forward constructively recommendations for improving the package.

We simply do not agree that hanging on to the status quo is the best solution because we are of the view that the current system is inadequate in achieving what should be the fundamental objectives of a residential rental housing policy. Those would include availability of safe and properly maintained rental housing, availability of affordable housing for low-income tenants, truly protecting tenants from inordinate rent increases and an accessible and fair system to resolve disputes.

I think the number one item in terms of the best means to achieve these objectives is that landlords must find it worthwhile to provide rental housing. This ultimate increase in the availability of units on the market will probably be the true protection for stability of prices. This is already being shown in many parts of the province. There must be a promotion of quality in housing by incentives for adhering to property standards, and those incentives may be in the form of both stick and carrot: providing assistance to lower-income persons to ensure access to housing and establishing a properly funded tribunal — and I emphasize the words "properly funded" — to oversee the administration of the legislation and resolve disputes.

It is quite clear that there are two parts of this package which are likeliest to cause most acute problems and upon which the most attention must be focused. It does not take an Einstein to realize that obviously it will be frequently in the interests of an owner that a sitting tenant vacate the premises. Ça ne prend pas la tête à Papineau pour se rendre compte que ça peut être évidemment un grave problème, ce contexte-là. We are therefore of the view that the enforcement unit established to investigate tenant complaints will have to be properly staffed and that tenant applications for relief will indeed have to be fast-tracked. Previous convictions for offences in this regard should be a basis for disallowing rent increases. In the long run, this may prove to be the most effective disincentive.

Secondly, we are not convinced that for the short and medium terms the market will be able to produce a sufficient supply of affordable housing for low-income tenants. In this regard, we take note of a helpful consideration raised by Mr David Tilson, MPP, when he was sitting in another part of this room on August 28 exactly five years ago. I quote:

"The wealthy tenants can afford all kinds of increases, if necessary, because many of them are living in luxury-type apartments and paying good rents and of course are just laughing at the system because they can continue to absorb very minor increases proportionately to what they are paying. My question to you is, realizing that inequity, should we even be putting forward this type of legislation? Should we be perhaps allowing for subsidies or allowances to individuals such as seniors who are on fixed incomes and cannot afford any increases whatsoever?"

Unless we are prepared to witness a growing chasm between the true two nations of this country — between



those who have and those who have not — it's going to be important to make sure and be vigilant that, for example, social assistance benefits keep pace with the reality of the true cost of housing and not some artificial national average. It may need to be that each region will have varying rates.

The dispute resolution system is one which we think is an improvement over the current situation, without being critical unduly of the Ontario Court (General Division); it has operated the best it can within the confines of the court system and the resources available to it. We think a tribunal system which has worked effectively in other jurisdictions can be an expeditious method of resolving disputes and can include innovative approaches in that regard.

My colleague Ms Clement will deal with the issue of standards of quality.

**Ms Bernadette Clement:** My name is Bernadette Clement and I'd like to touch on the issue of standards of quality in housing.

Availability of affordable food and shelter are two of the most fundamental human needs. If we look at the supply of food in this province and in this country, prices are determined to a certain extent by free competition in the market. However, there are controls which regulate production and which, most importantly, regulate the quality of the food which is there for consumption with a comprehensive system of standards.

In the area of housing, government involvement has focused on cost controls, but there should be more emphasis on the quality of available housing by making sure that owners or landlords maintain their buildings and respect property standards. There must be greater incentives for owners to adhere to standards of quality. This would benefit everyone, including lower-income tenants.

In our jurisdiction, for example, in Stormont-Dundas-Glengarry, a lot of the more affordable housing or cheaper housing might fail to meet property standards. Now, as my colleague mentioned, I don't think it does us any good to get into landlords being bad and tenants being good and into the adversarial system. Many landlords do take their responsibilities for maintaining their building seriously. However, some don't, and it's often at the expense of lower-income tenants.

This brings us to the importance of enforcing property standards and then possibly achieving consistency of property maintenance across the province. Some municipalities are better than others at enforcing their property standards. Some may choose to allocate more resources in that area. We feel the municipalities should be required to keep statistics and keep records of their enforcement of property standards so that they can be reviewed and periodically compared with the records of other municipalities so all communities are kept accountable for their bylaw enforcement efforts or lack thereof.

In fact, we even suggest that landlords or owners should not be able to go to a market rent unless they have first obtained a type of certificate of standards compliance, which would ensure their unit meets the property standards before they can go to a market rent or before they can increase their rent. This would be issued by a municipality or an appropriate authority, and it

would be the owner's responsibility to obtain that certificate or pay the fee required for such a certificate.

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The tenant protection package proposed by the government raises the issue of whether the province should have the power to inspect when municipalities are not enforcing their bylaws. This would probably be a way of achieving consistency across the province. Some municipalities are better than others, and if the province were to have power to inspect, this would help to ensure that Ontarians in communities, including smaller and more rural communities, would have access to properly maintained housing.

**Mr Saint-Aubin:** Our submission has alluded to other specifics and I might just mention a few in passing.

Policies to encourage home ownership are not irrelevant in a consideration of the issue of rental housing. Again, we think this province can be instructed by other jurisdictions. The fact that it is impossible for persons on lower incomes or on social assistance to be property owners of their own home is not necessarily the absolute way to go.

We think the law can be made more accessible. We hope the Canadian Bar Association — Ontario can be called upon, for example, to contribute in this regard to the preparation of standard tenancy agreement forms or leases that are in plain, simple language. Again, other places do this. Why can't we?

The tribunal being able to end a tenancy in certain circumstances where a senior, for example, is taken ill with a medical problem which requires a change in physical circumstances: At the moment, the law does not allow a court to end that tenancy and the tenant remains responsible for the balance of the lease. Again, other jurisdictions have a different rule and we could as well.

There's even the issue of updating the terminology, that perhaps after 800 years the time may have come to depart from language which refers to a "landlord," the lord of the manor. I think the legislation, which is a move to update things, can go again to plain language of owner and tenant, which incidentally in French is already accomplished.

In conclusion, I'd simply say that we believe the current package to be a move in the right direction, but it may be a total mistake. I don't know, but it should be tried. People expect of governments in this day and age that they will try, and if it doesn't work, try again. The reality is that the current situation is not ideal. The government must remain vigilant, however, to intervene if people are not being properly protected and must use its moral authority to make it clear that it would be prepared to do so if that should be the case. Thank you very much.

**Mr Mario Sergio (Yorkview):** Thanks for your presentation. You have brought a number of concerns which we have heard from tenants, and builders and developers also, throughout the hearings, last week in Toronto and the last couple of days in other areas.

You're saying that this is a move in the right direction. However, even builders, developers and landlords are saying that the proposed legislation — I call it proposed legislation. The government side calls it a working



document. If this is not going to help anybody, developers or tenants, what do you think would be the appropriate measures that the government should bring in to assist both: builders to promote new, affordable accommodations and still offer protection for tenants?

**Mr Saint-Aubin:** It's clear that we cannot move away from rent controls all of a sudden. I think there's general consensus in that. Any transition away from rent controls must ensure that people are not put into a situation of absolute anguish. That's why we think this blend has a chance to work. Again, the weak point is this question of so-called harassment being possible, and I mentioned that we think that is likely to happen.

**Mr Sergio:** I guess you're saying that in this proposed legislation there is no such measure.

**Mr Saint-Aubin:** I don't know what the ideal is, but I think this is an approach which has a great deal of merit and should be tried, being aware though that it's going to have to be properly funded. Any attempt to create a system such as this without being properly funded would be a misrepresentation.

**Mr Marchese:** Monsieur Saint-Aubin, I wasn't clear on what issues you thought this proposal was moving in the right direction on, but you obviously agree that decontrolling is a step in the right direction. Is that more or less correct?

**Mr Saint-Aubin:** We, perhaps to the surprise of some, are of the view that ultimately the market will take care of itself, with certain intervention when necessary.

**Mr Marchese:** We don't believe that and most tenants don't believe that. I believe the market leaves a whole lot of victims on the streets and that someone has to be there at the end to protect those victims. That's primarily my concern as a social democrat.

On the issue of the anti-harassment unit, you recognized yourself, and the government recognizes, that some landlords are likely to want to push some people out because it's to their benefit to do so. In doing so, you said you've got to put in that enforcement unit, the people in place to actually deal with it. Beyond that, my concern is that because it's complaint-driven, some of the people who are indeed vulnerable, many of the victims of this system or indeed any system — students, seniors who are very frail, people with mental disabilities, poor people in general, those who have very few literacy skills — may not introduce or initiate the complaint. So even if you had people, it may not even get there, as an additional problem. Would you agree with that?

**Mr Saint-Aubin:** Yes, I think that's a valid point. That's why the assistance, for example, of legal clinics or other community entities can be relevant in that regard. Making sure that the disadvantaged are able to connect up with the legal process is going to be an ongoing concern.

**Mr Marchese:** Sure. But the legal clinics have been cut off. Funding is going down. Tenant groups are being defunded as well. Where do they go? To this government?

**The Chair:** Thank you, Mr Marchese.

**Mr John L. Parker (York East):** Thank you very much for your presentation today. It's clear to me that you've put a lot of thought into this and I appreciate your

presentation here today. It's particularly significant to me that as members of a legal clinic who, I presume, work in this field on a regular basis, you recognize that the status quo has its drawbacks and it's appropriate that we search for solutions to those difficulties we currently face.

I'm intrigued in particular by one of your recommendations and I just want to touch on this and see if we can flesh it out a wee bit. That's on the matter of the dispute resolution process. We've received conflicting accounts and recommendations from people in the course of these hearings as to whether staying with the court system as it currently is is the best way to go or whether we should move towards a specialized tribunal. You touched on some recommendations in this area in your presentation. I wonder if you could just flesh that out a bit.

**Mr Saint-Aubin:** Because we live in Cornwall, which is not that far from Quebec, and we have many contacts with friends and neighbours in Quebec, we're perhaps more aware of how the Quebec tribunal system functions and we think this province can learn a great deal from that approach.

The court system's hallmark certainly has been fairness, but also a certain measure of procedural rigidity, which makes it a very daunting process for everyone concerned. We think perhaps a somewhat less formal setting can not only adjudicate, but also perhaps go the step forward of including the process of mediation, which at the moment just doesn't fit the court process.

**The Chair:** Thank you very much, folks. We appreciate your input this afternoon.

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## MINTO DEVELOPMENTS INC

**The Chair:** Our next presenters are from Minto Developments Inc: Guy Godin, vice-president, and Roger Greenberg, president. I'm supposed to have been politically correct and should have mentioned the president's name first; forgive me for that. Welcome to our committee, gentlemen. Should you allow some time for questions in your 20 minutes, they would begin with the New Democrats. The floor is yours.

**Mr Roger Greenberg:** Thank you very much, Mr Chairman. I won't take that as any insult. Good afternoon. My name is Roger Greenberg. I am the president of Minto Developments Inc. I believe that you've been provided with a couple of pieces of paper, one outlining a bit of our company history, and an op-ed piece to which I'll make reference a little later on.

Minto is a fully integrated, family-owned real estate company operating in Ottawa-Carleton, the greater Toronto area and south Florida. For over 40 years we have played an important role in shaping the metropolitan markets where we have chosen to do business. We have provided and continue to provide housing for thousands of families and accommodation for hundreds of businesses.

In Ottawa-Carleton, Minto is the largest provider of rental housing. We presently own and manage a portfolio of approximately 10,000 homes. They're spread throughout the region and range from bachelor apartments to single-family residences, with a majority of the units having rents of under \$650 per month.



We do not merely provide families with a place to live, but take great pride in the efforts we make to establish distinctive and much-sought-after communities. Communities such as Bayshore, Parkwood Hills and Herongate are much more than a collection of apartments and townhouses; they are places where we have developed and promoted communities that provide a full range of amenities and services for residents, such as youth centres, seniors' clubs and community-based policing centres — places truly to call home.

That is why we enjoy such a good reputation in this region's housing market. It is in that context that I am here today.

Unfortunately time does not permit me the opportunity to address in detail the contents of the consultation document *Tenant Protection Legislation: New Directions for Discussion*. There are many areas of concern, most of which have been sufficiently explored by previous deputants. Rather, I wish to go on record as endorsing wholeheartedly the comments of the Fair Rental Policy Organization of Ontario, the Rental Housing Supply Alliance and the Urban Development Institute Apartment Group, in all of which we are active members.

I am encouraged by the recognition of the government that there is something fundamentally wrong with the current environment related to rental housing. Ever since the introduction of rent control legislation in the mid-1970s we have been heading down a slippery slope, with most serious consequences for the citizens of Ontario. Government policy in a host of areas has completely shut down the construction of new private rental housing, a once vibrant segment of the housing market, and has altered the economic balance to such an extent that it is extremely difficult for landlords to continue to make the investments necessary for the maintenance, conservation and modernization of their existing buildings. Investment in new rental housing is practically non-existent.

It is telling that in south Florida, where we own and manage over 1,500 rental homes, developers are continuing to build new rental housing despite vacancy rates in excess of 5%. Yet in Toronto, where vacancy rates are less than 1%, no new rental housing is being built. The difference? Florida has no rent controls.

I support the need for change, for it is long overdue, but I have serious reservations as to what is being proposed. It is my opinion that what is needed is a more directed move towards a free and less regulated marketplace.

The best protection for tenants is ample choice. In most municipalities today in Ontario, tenants do not have choice. Current market conditions in Ottawa, where the published vacancy rate is well above 3%, clearly demonstrate the benefits of ample choice, but current conditions in Ottawa are temporary. Once the local economy improves, and without any new supply, we will soon find ourselves in the same situation as Metropolitan Toronto.

I have submitted for distribution to members of the committee a copy of an op-ed piece that the *Ottawa Citizen* published under my name on September 6, 1995. I was pleasantly surprised to see that a majority of what I suggested in the article was supported by noted housing economist Greg Lampert in an independent report prepared for the government earlier this year.

In the time I have today I would like to comment briefly on three substantive areas.

First, the government proposes the introduction of a more open and flexible negotiation process between landlords and tenants; on the other hand the government assumes there is a need for adjudication, ie, government involvement, for every rent increase above the established guidelines. This is clearly contradictory. In my opinion the role of the government should be limited to intervening in landlord-tenant disputes or in landlord-tenant negotiations only to settle disputes where there has been a breakdown between the parties.

From our experience, people in Ontario who are renters are extremely capable of representing their own interests. To suggest otherwise does not speak very highly of tenants and perpetuates a paternalism which is totally inappropriate. The provinces of British Columbia and Quebec operate on a model where tenants and landlords can agree to any terms which are acceptable to themselves. There's no need for an automatic review of every increase. A hearing need only be scheduled if a tenant files a complaint. The savings to all participants in the process are very real and immediate, as well as to the taxpayers at large.

My second concern is with regard to the loss of legal maximum rent on turnover. This will harm tenants because property owners will be less likely to reduce rents in soft markets if they know they will lose the ability to rent to full rent maximums when there's a strengthening of economic conditions. This concern is particularly real in the Ottawa market, which today is experiencing vacancy rates not seen in many years. In response to market conditions average rents have been falling, and incentives of one or two months of free rent are not uncommon.

Without the concept of legal maximum rent, landlords such as Minto will not be able to offer such incentives because such an action would effectively reduce the legal rent. Under the government's proposal, we would be faced with the prospect of having to use maximum rents or risk losing them altogether. With the use-it-or-lose-it option landlords will hold rents steady even if it takes longer to re-rent. The net effect is a loss for both landlords and tenants alike.

My final comment is with respect to the maintenance proposals, which would establish a scheme whereby it would be impossible for any landlord not to break the law on a regular and ongoing basis. Under these proposals, the instant a property standard is violated for something as simple as paint peeling on a windowsill the landlord will be deemed to have committed an offence.

The government says the intention behind eliminating notices of violation and making non-compliance with a work order an offence is to allow for faster pursuit of worst-case landlords. To us this is the proverbial case of using a shotgun to kill a fly.

On any given day our property managers receive some 500 service calls from our tenants; 90% of these service calls are responded to satisfactorily in less than 72 hours, yet in that intervening time frame we would be constantly breaking the law. It gets really ridiculous when one realizes that we could be breaking the law in circum-



stances where we hadn't even been made aware of the service issue in the first place.

For the legislation to be truly effective, steps should be taken to encourage in a positive way landlords and tenants to work together to resolve our concerns. After all, our tenants are our customers. They pay our salaries. In what other field of commerce in Ontario today is there a comparable situation where a conflict between a service provider and his or her customer is inherently built into the process? It's absurd.

If the government is looking to get at the worst-case landlord, it should craft regulations with this specific intent in mind. Measures should not be advanced which would have the effect of turning thousands of responsible landlords into inadvertent offenders by introducing unreasonable standards which can be easily, overzealously applied.

In closing, there's no doubt in my mind that reform is needed in this province as it relates to rental housing. However, misguided reform can make the situation even worse. If the government is interested in restoring a sense of balance to the rental housing market, serious consideration has to be given to ensuring that the regulatory environment incorporates measures that will truly address the weaknesses in the system.

Companies such as Minto have made a tremendous commitment to the rental housing market. As I mentioned earlier, our family has been in the business of providing quality affordable accommodation for over 40 years. We want to remain in this business, provided that there is a sense of balance and equity. We must be able to conduct ourselves on a sound business footing.

1510

I believe that the discussed reforms, together with modifications advanced by groups such as the Fair Rental Policy Organization of Ontario, are an important first step. Change does not stop with the proposals being considered here today; it must extend into areas of reform of property taxes, equal application of the goods and services tax, the elimination of unnecessary regulation and red tape and a rationalization of building codes.

I will be happy to answer any questions that members of the committee may have.

**Mr Marchese:** Thank you, Mr Godin. You support decontrol but you don't support reconcontrol, obviously.

**Mr Greenberg:** That's correct.

**Mr Marchese:** You would like a system of complete elimination of rent control, but you'll be happy with decontrol, "But if you're going to do decontrol, please don't put back reconcontrol," more or less.

**Mr Greenberg:** Correct.

**Mr Marchese:** You are saying that government should get out of the business of regulating, generally speaking, because the market really can take care of things and the market will take care of tenants as well. Is that a fair statement?

**Mr Greenberg:** Yes.

**Mr Marchese:** The problem you mentioned was that rent control has been a real problem for the construction business, for the creation of more rental accommodation. I think I heard you say that.

**Mr Greenberg:** I think rent controls have been a problem for tenants as well.

**Mr Marchese:** We don't agree, but let's disagree on that for a moment. There is no evidence whatsoever in the Lampert report, which you obviously must have read, that says that just eliminating rent controls is going to get the private sector to build. You know what he said.

**Mr Greenberg:** Correct.

**Mr Marchese:** You said: "Please don't give away things, you government, to make things bad. Please get involved, however" — you do want the government to get involved to give you certain things to be able to create. This is what Mr Lampert says the private sector wants to be able to build. He says you need to eliminate provincial capital tax, you need to lower administration due to reform of rent regulations, you need to cut in half the CMHC mortgage insurance fee, cut in half the GST payable, reduce development charges and equalize property taxes. You do want the government to get involved in those measures, don't you?

**Mr Greenberg:** No. What I want the government to do is get out of what it's done over the last 10 years. All those items that you've just mentioned are brand-new items that either the provincial government or the federal government has instituted in the last 10 years. That's why I brought this. I produced this before Mr Lampert did his. In my document here I say that if you go back to conditions in 1985, rent control in and of itself is not going to resolve the issue.

**Mr Marchese:** Absolutely.

**Mr Greenberg:** I'm asking the government to take back a lot of the steps they've instituted in the last 10 years which, through government action, not through private sector action, have tremendously increased the cost of housing. The things that we control, namely land and building costs, have stayed the same over the last 10 years. It's the government, through regulation, which has dramatically driven up the cost of housing.

**Mr Marchese:** Mr Godin —

**Mr Greenberg:** I'm Mr Greenberg. He's Mr Godin.

**Mr Marchese:** Sorry about that. It's the name that's on that paper.

The point Mr Lampert makes is that construction will not happen in the private sector, and if it does, with all these measures that I have mentioned, it will only build at the high end, not at the low end.

**Mr Greenberg:** No, I don't agree with that.

**Mr Marchese:** Professor Hulchanski makes that statement in the end. He says the real issue is affordability. In your typical understanding of good, traditional consumer economics, supply and demand, Mr Hulchanski says the reason why you're not building is because there's no demand; people can't afford it.

**Mr Greenberg:** I don't agree with that. How many units has Professor Hulchanski built, how many rental units?

**Mr Marchese:** Yes, but you guys know best.

**Mr Greenberg:** I know better. We've built many units.

**Mr Hardeman:** Thank you very much for your presentation. I want to go to the issue of enforcement of the lack of maintenance and the fact that the offence will be lack of maintenance as opposed to not obeying a work order. You expressed the position that the situation



should be allowed to be worked out between the landlord, or shall we say the owner, and the tenant. What part of the discussion paper do you feel prohibits that from happening presently? The changing of where the enforcement starts, do you not see that negotiations between the two would take place prior to the official ever being called in?

**Mr Greenberg:** They could. I'm not suggesting that the legislation prohibits discussion between a tenant and a landlord before, but it doesn't make it mandatory. That's what I'm suggesting needs to be done. The landlord should have an opportunity first to be made aware that there is a problem and be given ample opportunity to address the problem. I believe that the overwhelming majority of landlords in this province do take pride in their properties and do respond, and there are clearly those who don't. It's always the bad apples that spoil the cake for everybody else. But don't hammer everybody because of the one or two, or however many there are, bad landlords in the area. Make it mandatory that landlords be advised that there's a problem, be given an opportunity to respond and clearly fail to respond; then if they still don't, I have no problem.

**Mr Hardeman:** The ability of property standards officials, assuming that they are an impartial third party, do you feel that the discussion paper says they should immediately lay the charge as opposed to seeing if the issue could be dealt with through mediation?

**Mr Greenberg:** Again it's not a question that it couldn't happen that way; I'm saying that the discussion paper does not clearly provide that there must be that opportunity for the landlord to correct the problem first. There are situations, even under the present legislation, where a tenant will call the building official over and they haven't even called us; we're not even aware. We don't normally go into a tenant's apartment unless we're asked to, so we would have no idea of what kind of service issues they may have unless they call us. That's all I'm saying.

**Mr Patten:** Thank you, gentlemen, for your presentation. I have two questions. First, could you elaborate on your comment that rent control is a problem for tenants as well. What did you mean by that?

**Mr Greenberg:** I believe that the best protection for tenants is the ability to have choice. Where they don't have choice, they're in effect trapped in their existing apartment. The best protection for tenants is where the private sector is continuing to build new housing on a regular basis. That's what happens in many jurisdictions. It's not happening in this jurisdiction. Rent controls are not the only restriction. Removing rent controls in and of themselves would not answer all the problems.

**Mr Patten:** I concur on that analysis. It seems to me if there was a dollar to be made, somebody would be in there doing something. You'll appreciate that our concern really is the construction of affordable housing, in other words, for the lower-income population. You referred to the Lampert report, which identified a variety of new costs and charges for builders, that this doesn't make it economically worthwhile to be in the marketplace. But if some of those were done — maybe there are no guarantees — how can we be assured that there would be building for lower-level tenants?

**Mr Greenberg:** I have two answers to your question. One you gave in your introduction when you said if there's a buck to be made in it, people will respond. That's the free enterprise system, number one. Number two, let's not fool ourselves: There is a significant segment of our society where no one can build on an economic basis for those people. Somebody who is earning \$10,000 to \$12,000 a year who can only afford to pay \$200 a month in rent, no housing can be produced that will meet \$200 a month in rent. That is a society problem; that is not a builder problem. The society response to that should be the provision of some kind of income supplement, called shelter allowances, whereby the general taxpayer addresses the society problem, not a limited, targeted, segmented group called landlords. That's why we have progressive income tax legislation.

**Mr Patten:** Okay, so you say to provide a degree of equal opportunity you'd shift it from the unit itself to those people in need, who would have some sort of subsidy or support.

**Mr Greenberg:** Yes.

**The Chair:** Thank you, gentlemen. We appreciate your attendance here today and your input into our deliberations.

1520

## ACTION-LOGEMENT

**The Chair:** Our next presenters are Rosine Kaley and Marco Leboeuf from Action-Logement. Welcome to our committee. You have 20 minutes. Should you leave any time for questions, they would begin with the government. The floor is yours.

**M<sup>me</sup> Rosine Kaley :** Bonjour. Je suis Rosine Kaley, directrice, Action-Logement.

**M. Marco Leboeuf :** Moi, je suis Marco Leboeuf, coordonnateur des services à l'externe avec Action-Logement.

**M<sup>me</sup> Kaley:** Je vais tout en premier vous présenter très brièvement notre organisme Action-Logement. C'est un organisme à but non lucratif, donc on offre des services de première ligne pour des personnes qui ont des difficultés dans le domaine du logement. Nous offrons des services d'aide pour la résolution de conflits entre propriétaires et locataires, également pour la recherche de logements. Tous nos services sont offerts dans les deux langues, français et anglais.

Action-Logement oeuvre sur le territoire de la municipalité régionale d'Ottawa-Carleton à partir de trois centres : Vanier, Gloucester et Cumberland. Malheureusement, la demande pour nos services s'accroît d'année en année. Juste pour vous donner un exemple, en 1995 nous avons effectué 24 280 interventions, ceci auprès d'une clientèle variée, aussi bien des personnes sans abri, des chambreurs, des propriétaires et des locataires.

Indépendamment du fait que huit de nos employés sont directement affectés au service à la clientèle à temps plein, nos listes d'attente continuent de grandir. Les cas qu'on juge prioritaires sont traités le jour même, et même à ça on a de plus en plus de mal à traiter les urgences le jour même. Hier, par exemple, nous avons eu 10 personnes qui sont venues avec des cas d'extrême urgence.



C'est la raison pour laquelle on n'était pas aussi bien préparés qu'on devrait l'être aujourd'hui.

Pour des raisons diverses, la plupart de ces personnes ont un besoin urgent de recherche de logement. Les logements abordables sont rares. Les conditions de logement sont inacceptables pour trop de gens, puis il y a trop de personnes et de familles qui se retrouvent sans abri, même de manière temporaire. Nous sommes donc entièrement d'accord qu'il faut tout mettre en oeuvre le plus rapidement possible pour remédier à la situation présente.

Il est grand temps de faire quelque chose, mais quoi ? Le document de consultation qui est présentée par le gouvernement propose certaines solutions. En tant qu'organisme communautaire, on a donc pris le temps d'analyser ce qui est proposé. Aujourd'hui nous vous présentons nos réactions au document.

**M. Leboeuf :** Lorsqu'on a lu le document, il y a deux objectifs qui sous-tendent la révision de la législation actuelle sur le logement. Le premier qu'on a retiré, c'est d'inciter la construction de nouveaux logements. Le deuxième, c'est d'encourager les propriétaires à mieux entretenir les logements existants.

Ces deux principes sont valables. Cependant, nous nous questionnons sur les moyens que le gouvernement ontarien a l'intention de prendre pour atteindre ces objectifs. De plus, nous avons des inquiétudes concernant l'impact de ces mesures sur les locataires.

Action-Logement, comme groupe communautaire, on a parti notre analyse sur la position que nous, on a toujours prise envers les locataires. Donc, le logement pour nous, c'est un droit et non pas un privilège. Chaque personne a le droit d'être logée adéquatement.

Si vous regardez le document, on a divisé en deux parties au niveau de l'analyse, soit au niveau du contrôle des loyers, ensuite au niveau de la Loi sur la location immobilière.

Au niveau du contrôle des loyers, le point qui est ressorti, c'était l'élimination du contrôle des loyers. Le principe, c'est que lorsqu'une unité devient disponible, le loyer peut être augmenté sans aucune limite. La disparition partielle du contrôle des loyers est inquiétant, puis on a sorti les raisons pour lesquelles on trouve ça très inquiétant.

Dans une situation où le taux de disponibilité de logements est bas, les locataires vont avoir de la difficulté à se trouver un endroit. Plus tard dans le document et dans les conclusions vous verrez aussi pourquoi on fait ces liens-là. Dans la région d'Ottawa-Carleton, si le taux de disponibilité est bas, les gens ont de la difficulté à se loger, ce qui veut dire que c'est toujours la loi de l'offre et de la demande. Donc, si on a très peu de disponibles, les prix vont augmenter, et c'est déjà difficile de se trouver un logement à prix abordable dans Ottawa-Carleton. Si les prix augmentent encore, il y énormément de gens qui vont avoir de la difficulté à pouvoir se loger sans avoir à dépenser une très grande partie de leur revenu.

Dans la situation où le taux de disponibilité de logements serait relativement élevé — actuellement c'est le cas dans Ottawa-Carleton ; depuis un an, un an et demi, le taux a beaucoup augmenté — il reste encore que les

logements à prix abordable sont difficiles à trouver. Les propriétaires sont parfois mal informés. Ils pourraient donc augmenter le loyer d'un logement disponible et ne pas arriver à le louer.

Ce qui se passe présentement, les frais administratifs se sont encore accrus à cause des pertes de loyers. Par ailleurs, les taux de disponibilité fluctuent périodiquement. La situation à Ottawa-Carleton pourrait rapidement redevenir ce qu'elle était il y a quelques années, avec un taux de disponibilité de logements très bas.

**M<sup>me</sup> Kaley :** Dans nos services également, on offre aux propriétaires d'afficher leurs logements. De plus en plus, la demande s'accroît là-dessus. On a remarqué que, au niveau des propriétaires, l'adaptation est très difficile à faire lorsque le marché change. Par exemple, si les locataires qui sont là présentement ne peuvent pas payer le prix du loyer, plutôt que de faire certaines concessions sur les arrangements, ils vont finalement évincer le locataire ou le locataire va partir en disant, «Je ne peux plus payer le loyer», et là ils attendent pendant plus d'un mois ou ont des pertes de loyers avant de réaliser qu'il faut baisser. Ça nous inquiète beaucoup avec le concept que le gouvernement approche, disant qu'il va y avoir un certain équilibre qui va se faire. Ce qu'on remarque là, c'est que l'adaptation des propriétaires est très lente quand il y a des changements.

**M. Leboeuf :** Le deuxième point est au niveau de la diminution de la mobilité des locataires. L'endroit où on est situé, on a pignon sur rue. Un grand nombre de notre clientèle est également la clientèle d'autres services. Lorsque les différents groupes communautaires se rencontrent, on s'aperçoit que les gens sont souvent appelés à déménager pour diverses raisons. Avoir un genre de législation comme le gouvernement veut proposer actuellement, si les gens déménagent, ça veut dire qu'ils ne sont pas certains qu'ils vont être capables d'avoir un loyer au même prix ou parfois à moindre prix. En enlevant le contrôle du loyer, les propriétaires pourraient augmenter à leur guise au moment où le locataire aura quitté.

Ce besoin de mobilité sera enfreint par l'insécurité d'avoir un nouveau loyer plus élevé et risque d'empêcher plusieurs personnes ou familles d'obtenir un emploi ou une formation professionnelle dont ils ont besoin. Donc, comme je vous l'expliquais tantôt, souvent les gens sont appelés à déménager. Parfois c'est juste d'un quartier à l'autre, parce qu'il doivent suivre une formation ou un nouvel emploi. Si les gens n'ont pas de voiture ou ont de la difficulté à se déplacer, ils doivent donc déménager pour se rapprocher du lieu de formation ou du lieu de travail. Ça pourrait restreindre énormément les locataires à pouvoir changer d'endroit pour suivre ce qu'ils doivent faire.

Le troisième point est au niveau de la vulnérabilité des locataires. Plusieurs propriétaires pourraient avoir tendance à exercer des pressions pour faire quitter les locataires actuels afin de pouvoir augmenter les loyers. Certains locataires sont plus vulnérables que d'autres et ils pourraient se trouver victimes de ces pressions et trop intimidés pour recourir à un système d'appel ou à la Commission des droits de la personne. Malgré les lois qui sont actuellement en place, on a parfois des cas où les



gens viennent et les propriétaires font des pressions pour que les locataires quittent pour diverses raisons. Parfois ces gens-là ne sont pas équipés pour faire face et puis être capables de se défendre eux-mêmes. En enlevant la législation actuelle, ça nous inquiéterait que ces situations-là empirent, parce que les propriétaires voudraient que les locataires quittent pour pouvoir augmenter les loyers pour faire un plus gros profit.

La disparition d'un outil important, le registre des loyers. Étant donné que nous prenons position pour conserver le contrôle des loyers pour les raisons énumérées ci-dessus, il est essentiel que le registre des loyers soit maintenu comme un outil essentiel d'application de ce contrôle. Le registre des loyers, même s'il ne couvre pas encore tous les loyers chargés en Ontario, fait l'envie des autres provinces. Il constitue un moyen d'information important et indispensable pour les locataires de l'Ontario. Il est donc important non seulement de conserver le registre des loyers, mais de l'étendre à tous les loyers de l'Ontario.

Un deuxième point est au niveau de l'augmentation des loyers pour dépenses de capitalisation. Le principe qui est retenu, c'était que l'augmentation était plafonnée à 4 % au lieu de 3 %, comme c'est le cas maintenant, après obtention d'une approbation. Notre réaction, nous n'avons pas d'objection majeure à cette augmentation, dans la mesure où (1) elle ne dépasse pas 1 %, et (2) elle demeure conditionnelle à l'obtention d'une approbation. Donc, les propriétaires qui veulent vraiment obtenir cette augmentation devraient obligatoirement avoir la permission, avoir l'approbation. Donc, ça ne pourrait pas être une augmentation qui est un droit, qu'ils peuvent augmenter comme ils veulent. Ils doivent vraiment avoir l'approbation pour pouvoir l'obtenir, comme c'est actuellement le cas.

Ensuite, les réparations exceptionnelles et nouveaux services. Votre principe : entente à l'amiable entre propriétaires et locataires pour faire des travaux additionnels et des augmentations de loyers supplémentaires. Nous craignons que certains locataires se fassent «tordre le bras» pour accepter des travaux additionnels. Il est donc crucial qu'un système d'appel adéquat et accessible à tous et à toutes soit instauré.

1530

Les normes de bien-fonds ; le renforcement des normes. Votre principe, c'est s'assurer que les normes de bien-fonds soient respectées et augmenter les amendes pour les propriétaires qui ne les respectent pas. En réaction à ça, on est d'accord avec le principe. Nous anticipons cependant quelques problèmes.

Il existe présentement une carence importante dans les services de la plupart des municipalités. Le nombre d'inspecteurs est nettement insuffisant et la période d'attente est souvent inacceptable. Nous vous présentons ci-dessous un tableau avec le nombre d'inspecteurs pour quelques municipalités de la MROC. Donc, si vous regardez à la page 4 de votre document, on a fait la recherche, et vous avez le nombre d'inspecteurs et la population ainsi que le nombre d'appartements et de maisons en rangée, qui vous donne la moyenne du nombre d'unités locatives par inspecteur. Si on regarde pour Ottawa : 4 772 unités par inspecteur. Si on doit faire

appel à un inspecteur pour venir chez soi, on risque d'attendre longtemps grâce au nombre d'unités qu'ils doivent couvrir. Ça vous donne une idée parfois de l'attente des gens pour réussir à avoir un inspecteur chez eux.

Les transferts monétaires aux municipalités devraient être augmentés pour permettre des services d'inspection adéquats et proactifs dans toutes les municipalités. Si une municipalité donne l'ordre de faire des réparations et que cet ordre n'est pas respecté dans de brefs délais, les loyers devraient être gelés tant que l'ordre n'est pas respecté. Le montant des loyers devrait être indiqué sur l'ordre afin d'éviter qu'un nouveau locataire paie un loyer augmenté malgré le gel.

Si une municipalité fait des travaux d'urgence, la municipalité devrait pouvoir récupérer le montant avancé en percevant les taxes foncières. Dans ce cas, les augmentations de taxes ne devraient pas pouvoir être transmises aux locataires — voir la section du document concernant les augmentations exceptionnelles lorsque provenant de l'extérieur.

Le rôle du gouvernement ontarien dans l'application des normes de bien-fonds. Un danger pourrait aussi se présenter lorsque certaines municipalités n'assument pas leurs responsabilités. Dans l'application des normes de bien-fonds, il est donc important que le gouvernement ontarien continue d'assumer un rôle par le biais du contrôle législatif.

Ensuite, on tombe sous la Loi sur la location immobilière. On a ressorti les points qui étaient directement liés avec la Loi sur la location immobilière actuelle. Sur les dispositions des biens personnels, le concept, c'est quand une unité est vacante depuis 30 jours, le propriétaire peut se débarrasser des biens. Notre réaction : le principe voulant préciser un délai dans la législation représenterait une amélioration à la situation actuelle. Dans la législation actuelle ce n'est pas précisé, et on a parfois des problèmes avec ce non précisé-là dans la loi.

Par contre, un délai devrait plutôt être 30 jours à partir de la date où le shérif est venu changer les serrures. Autrement dit, un propriétaire devrait avoir obtenu un bref de mise en possession pour disposer des biens. On s'est basé là-dessus d'après certaines de nos expériences. Donc, si une unité est vacante pendant 30 jours, ça ne veut pas nécessairement dire qu'un locataire a quitté l'endroit. On a déjà eu un cas d'une personne qui était rentrée à l'hôpital pour une crise cardiaque et le propriétaire, après 30 jours, a dit, «La personne est partie», et puis il voulait simplement aller de l'avant avec l'avis d'éviction etc.

Si ce principe-là n'est pas mis en place, les propriétaires pourraient avec cet énoncé-là dire : «L'appartement était vacant pendant 30 jours. On n'a pas eu de nouvelles. On peut disposer des biens.» Donc, on doit s'assurer qu'il y a vraiment eu tout le processus d'éviction et l'ordre du shérif pour changer les serrures pour pouvoir disposer des biens.

La sous-location. Le concept est que le locataire devra faire approuver par son propriétaire les personnes à qui il a l'intention de sous-louer son logement. Le propriétaire peut refuser les sous-locataires si le motif est



raisonnable. Notre réaction : nous appuyons ce concept dans la mesure où les droits des sous-locataires doivent être respectés. L'officialisation de la sous-location représente donc une meilleure protection pour ces personnes.

Il est cependant important que la loi précise les motifs permettant au propriétaire de refuser un sous-locataire afin d'éviter la discrimination sous toutes les formes. Il faut aussi envisager que certains propriétaires pourraient être tentés d'utiliser ce nouveau pouvoir pour refuser une sous-location, alors que le motif véritable est d'évincer un locataire afin d'augmenter son loyer. Le maintien du contrôle des loyers permettrait de résoudre cette difficulté.

La Loi sur la protection des biens locatifs. Le parc de logements locatifs à prix abordables est insuffisant à travers la province. Les demandes de conversion ou de démolition qui affectent ces logements devraient continuer de faire l'objet d'un contrôle de la part des municipalités afin de maintenir un parc locatif correspondant aux besoins de leurs communautés.

Le ministère des Affaires municipales et du Logement devrait aussi continuer à jouer un rôle de contrôle au niveau législatif pour s'assurer que certaines municipalités ne soient pas dûment influencées par les intérêts de quelques individus ou corporations au détriment des intérêts collectifs et d'une saine planification urbaine.

**M<sup>me</sup> Kaley :** Il nous a semblé assez évident que les mesures proposées par le gouvernement ontarien ne vont pas pouvoir atteindre les objectifs qu'il s'est fixé, c'est-à-dire, augmenter le parc locatif et obtenir un meilleur entretien des logements existants, ce qui est assez inquiétant. Notre analyse même de ces mesures indique plutôt que les résultats risquent d'être l'inverse de ce qui était escompté. Je vais vous expliquer un petit peu dans les quelques minutes qui nous restent.

Pour ce qui est d'inciter le développement de logements locatifs, l'exemption du contrôle des loyers pour les nouveaux logements existe depuis 1992. Cette mesure n'a eu aucune influence sur la construction. La majorité des constructions neuves a été faite par les programmes de logements sociaux et non pas par le secteur privé. Donc, retirer le contrôle des loyers, à notre avis, ne va pas stimuler la construction.

Pour ce qui est d'encourager un meilleur entretien des unités existantes, là non plus on ne pense pas que d'augmenter sans contrôle les loyers aussitôt que les unités deviennent disponibles va nécessairement apporter une amélioration à l'entretien des logements. Des revenus plus grands pourraient permettre aux propriétaires d'augmenter leurs profits ou bien de couvrir des frais plus élevés de vacances, de disponibilité, lorsque les logements ont du mal à être loués.

C'est l'exemple que j'ai donné tantôt. Étant donné que certains propriétaires ont du mal à s'adapter aux fluctuations du marché, ils vont avoir tendance à maintenir les prix qu'ils avaient, des loyers qu'ils avaient précédemment et, c'est ce qu'on voit présentement, avoir des pertes, des frais plus grands, et c'est comme ça que finalement l'argent va être dépensé, pas nécessairement en réparations.

On recommande que le gouvernement revoie les propositions avancées en fonction des ses objectifs et

tienne compte de la diminution importante du pouvoir de consommation des Ontariens et des Ontariennes.

Une prémisse de base qui semble être énoncée dans le document de consultation est la capacité des locataires de payer d'avantage le loyer et de payer d'avantage des réparations. Étant donné le contexte économique actuel, on estime que cette prémisse est erronée.

Dans Ottawa-Carleton — je suis sûre qu'il y a d'autres interventions qui vont donner des chiffres même plus détaillés que les nôtres — on estime à 14 % ou 15 % des résidents qui vivent sous le seuil de la pauvreté. Sans avoir de chiffres, la pauvreté est de plus en plus évidente, même à Ottawa, sans parler de Toronto. On ne s'étonne plus ici de voir des personnes qui fouillent dans les poubelles, qui vident des boîtes bleues, qui pêchent dans la rivière polluée etc. C'est assez surprenant pour Ottawa.

Selon les statistiques du ministère des Affaires municipales et du Logement de l'Ontario, qui datent de cette année, de quelques mois, les locataires utilisant les services d'agences communautaires de l'est ontarien payent déjà entre 48 % et 67 % de leurs revenus en loyer. Ça dépend de la grandeur du logement. En annexe, d'ailleurs, on vous présente un tableau qui a été préparé par le ministère et qui fait état de la situation dans chaque partie de la province.

Nos propres statistiques sont encore plus dramatiques puisque nos clients payent de 58 % à 86 % de leurs revenus qui passent dans leur logement. De toute évidence, ces personnes n'ont pas assez de revenus pour subir des augmentations de loyer.

Déplacer tous les locataires qui ne peuvent payer, ce n'est non plus une solution. Donc on a, dans la fin du document, présenté quelques autres mesures qui pourraient certainement aider. Ce qui peut être un peu différent des autres interventions, c'est pour le développement de nouveaux logements, de développer des programmes d'aide à la communauté pour des projets innovateurs. On retrouve le même principe pour ce qui est de mieux entretenir les logements existants. L'autogestion de certains édifices pourrait également améliorer l'entretien dans certains édifices.

Nous préconisons également une meilleure formation de certains propriétaires. On constate que, en travaillant beaucoup avec de petits propriétaires, au départ ils n'ont pas les capacités de gestion que ça prend d'être en affaires.

**The Chair :** Thank you very much. Unfortunately the time goes by rather quickly. We appreciate your input here this afternoon and we'll continue to read the rest of your presentation.

1540

#### URBANDALE CORP

**The Chair :** Our next presenter is the Urbandale Corp, Peter Burns, senior vice-president. Good afternoon, sir. Welcome. Should you allow some time for questions during your 20 minutes, the government would lead off. The floor is yours.

**Mr Peter Burns :** Thank you. I'm Peter Burns of Urbandale Corp. Who we are is on the second page of the brief.



I don't intend to plow through reading the brief quickly; I'm not even sure how long it would take. I just want to highlight some of the main features. Most of what I've said I know you're hearing a number of times in the various cities you're visiting. I'm not sure there's anything that's that new to you. Mainly I was hoping, from what we were hearing, to be more enthusiastic about the changes.

There are advantages in making it simpler for tenants and small landlords to understand the Landlord and Tenant Act, but keeping the control was a surprise. The way it's being done is a bit of concern in Ottawa, where we're experiencing a vacancy rate. In the fall, CMHC will probably be 4% or 5%, which means we're all offering bargains at this point. With the legal maximum rent concept, we could retain that and the incoming tenant would expect it. When things get better there's a hope that we can move back to that, and that is constantly indexed. Depending on how this works, we may rent at a giveaway rent — some people are offering two or three months' free rent — and that's the new legal maximum rent for the new tenant.

Some will say, "That's fine; tenants turn over 30% every year." We have that in Urbandale, 3,000 units, but many tenants have been with us for 30 years, which is an indication of our service, but that's a side issue. If someone goes in at the very worst of the situation, that's the rent for many years, and we don't see any horizon. We think it's a worry for refinancing buildings or the landlord obtaining money to do major work, because the lender looks at the rent potential you give them or the legal maximum rents, even though you may not be collecting them.

If you're going to keep this decontrol when a tenant moves out and then it's back under control, we think the legal maximum rent, unfortunately, has to be dovetailed with it. We think you may be passing up an opportunity to rid yourself of the very high expense of administration in the areas of Ontario where there's a good vacancy rate and the market prevails. Toronto is different, and where goes Toronto has always gone the rest of Ontario. It would be nice to draw the line and say, "Do your own legislation there, but don't saddle the rest of us in small-town Ontario, where 70% of the places are less than 5,000 population." I'm not sure you need it there. Small landlords and tenants know each other; they make their own deal. There's very little recourse to the present system.

I think you could start to decontrol — at one point there was a decontrol when the rent reached \$750. That disappeared. Maybe there's a combination of a number of factors. It's your maintaining whatever controls you need where you feel the situations are pressing; ie, low vacancy rate and still not much happening in new construction.

Property standards: I had 10 years directing that with the city, so I'm comfortable talking about that. We had seven inspectors. It was all virtually verbal; sometimes an order, but only landlords that we probably knew ahead of time weren't going to do something. It's very time-consuming in the court system. I'd say 90% of our work was verbal or a notice of violation, giving them time

because they didn't have the money, with a small landlord, to do the work. We'd spread it out over a period of time. As I said in here, it's like straightening teeth: It's long, it's slow, but hopefully in the end you achieve something. I don't know why there's a feeling that you need this immediate kind of ticketing and orders and continuations and these kinds of fines. For a small landlord, that's probably 20 years of his so-called profit if he's saddled with a \$25,000 fine, which he's not going to be able to pay.

I was hoping that the retiring chief of the fire prevention bureau would come with me — he couldn't — and the director of property standards with the city, who shares my philosophy still and wants the companies in the budget meeting. He's going to do a brief and send it in, not appear. There is a letter in my brief from the chief of the fire prevention bureau, who is comfortable with the philosophy I'm talking about.

A lot of the time we don't know there's a complaint until the tenant, for some reason — probably because there's an argument over arrears or some other problem — phones property standards directly. We don't even know what they're complaining of. Quite often, it's legitimate. We go out, agree, do it and that's the end of it. I've been there since 1972. We've never had a work order and we've never had a fire marshal's order. We've had lots of notices, verbal; we do it, we meet the fire code. I think that's generally how it should work, and you should provide that it can work that way. I think there is the fallback now in the legislation to catch someone's attention with a four by four when it's needed. I'm not sure you need to remove the softer approach initially in trying to get something done.

Will the changes create new construction? I think you heard much the same thing from Minto. Our costs are about the same. Land is a good bargain. GST, the Ontario building code, levies — all are added to it. You can buy a decent used existing building at \$40,000 a unit. We figure it's \$85,000 or \$90,000 to build that new. You can't have a rent that's going to compete in the so-called controlled market. There's a gap that's going to take a while to fill. I think there's a chance with the vacancy rate to start moving to some decontrol, and that will put some daylight on the horizon.

I appreciate the changes to the Landlord and Tenant Act. A very disruptive, noisy tenant is not bothering us particularly; we're sitting in our head office. It's hell on earth for the neighbours. This, hopefully, will let us move in quickly to solve the problem. Now they have to live with this problem. While we're living with it, trying to obtain an eviction, we're losing good tenants because they are giving up and moving out. That's not productive.

I appreciate the handling of the abandoned goods. It's a very vague wording now. This is good.

1550

I don't know if anyone's mentioned pets. More and more, our standard, old-time tenants are saying: "Why are you allowing all of these dogs? We're frightened of them. They're large dogs. They're soiling the corridors; they're going in the garage. You didn't used to allow it." We say, "We can't any more," and more and more tenants are realizing we can't say no. I think that was a bad step



in the wrong direction. Cats — we didn't want to know they had them. They're in the suite, they use a litter box; that's fine. But dogs are different. They have to go out on a regular basis. People get lazy and just let them out the suite door; they do their job and come back in.

I think I've covered mainly — there are the letters from the fire prevention bureau in my brief. There's a letter dealing with the vacancy rate and the cost of construction on average rents from PMA. I gave you an article that has some philosophical views on property standards that was done a number of years ago, but I think is still appropriate.

I probably should have read for the whole 20 minutes, so I can get the hell out before I'm attacked, but if I can help you —

**Mr Marchese:** Keep reading.

**Mr Burns:** No. I've done this many times and I've plowed through them. I'm not sure it's that productive. If it's interesting, you have it. If I can answer some questions of what's here or not here, I've been with Urban-dale since 1972 and was with the city for a number of years before that, and CMHC before that, so maybe I have a few answers.

**The Chair:** We will turn the members loose on you anyway and see what happens.

**Mr Toni Skarica (Wentworth North):** I'll be pretty gentle with you, sir. The government's main purpose in dealing with rent control is that it hopes there will be new housing stock built, because it just hasn't happened for a long time now. My impression from what I'm hearing from presenters such as yourself and others is that just getting rid of rent control or changing it in some fashion isn't going to do that. What would get us moving again to building new housing stock?

**Mr Burns:** Not quite to answer, but to answer, we've over the last few years built 300 town houses in Bridlewood, a suburb in Kanata, because ground-oriented is much simpler to build and you don't have the part of the building code for high-rise. We can build and rent for about \$1,350 a month net rent — in other words, you pay all your utilities — and we're making a dollar off those. We can't touch a high-rise at this point. So you have to revisit the Ontario building code, and I see some daylight there, moving back on basement insulation in homes and so on. It has become very demanding. Maybe there's a halfway medium. Levies — it's good for the municipality; it adds to this. There's just a whole bunch of things. If rent control stays to any extent, those controlled rents set the market, which you would have to compete with with a new building. So no, we're not going to start building high-rise tomorrow. Over the last few years we've built 300 townhouses. That's half an answer to you; it's cost.

**Mr Skarica:** One thing we've noticed when we've travelled to northern Ontario is that in virtually all the centres outside Toronto the rents are going up at a rate less than would be permissible under the current rent controls, so it really is quite irrelevant here.

**Mr Burns:** And Ottawa too.

**Mr Skarica:** Yet there's still no new stock being built. Is there a psychological effect on builders, the fact that there is rent control? Even though really it has no impact

right now, does it still have an impact on decisions whether or not to build?

**Mr Burns:** None of us like to be told, and I think in 1975, which was when we built our last high-rise rental, rent control had something to do with it. The Bob Campeaus said, "No more"; Cadillac Fairview said, "No more." That was psychological. Since then we've had all the add-ons to the building code and so on. So there's going to be some inertia to overcome first.

**Mr Curling:** Thank you for the presentation. Let me follow through. As you said, it may be psychological, and because it is psychological, they will not build. But Lampert said there are many other factors that tell you that even if that psychological thing is removed, you still won't build for the lower end. Let me also say to you that as we go around the northern part — which the members haven't had time to tell you, and I think they would — even though the vacancy rate increased, the waiting lists for affordable accommodation increased also. Therefore, you can't really tie in the high vacancy rate to say that there is more affordable accommodation on the market.

One other point: 84,000 units owned by Ontario Housing are vulnerable now to being sold to the private sector. Is that new direction they're heading in helpful for those who need affordable housing?

**Mr Burns:** How many times did we have this debate in committee and personally when you were housing minister?

**Mr Curling:** We didn't sell them.

**Mr Burns:** The clock goes around and around. I know your question and I agree: I don't think we, the private market, are going to house most of the people who are on the waiting list for Ontario Housing Corp units. Their needs are down there; our rents are going to be up there. There's still going to be a need for a portfolio. I also like the rent supplement program that the various governments have used over the years. There's a group in society that needs that kind of help. There's a group in Ontario Housing units that probably are not that welcome by our tenant neighbours if they move in; their lifestyles are different. There's a segment there for whom that portfolio is needed. In many cities the portfolio — in Ottawa-Carleton the regional housing authority runs a good show. We consult back and forth on maintenance matters and so on, and they do a good job. I think a lot of the non-profit are being ignored because of lack of expertise management, but I don't think you can lose those portfolios where they're subsidized. I don't think the non-profit market rent should be competing, but the subsidized, there's a need, because we're not in the subsidized business.

**Mr Marchese:** There are many units that are not being rented at the maximum rent. If that is so, and you already can do that if you like, or if many owners like, why would we have a need to remove rent controls, at least in part, as they're doing it, through decontrolling?

**Mr Burns:** Because those depressed rents are not paying for the improvements that are needed. Most of Ontario's housing stock is from the 1950s and 1960s, and with Bill 4, which the NDP brought in, there's been virtually no major renovation work because there was no



cost pass-through. We're all postponing, patching the roof and keeping the boiler plant going. If we get back to a cost pass-through, there's going to be a pent-up demand. It's going to produce a lot of employment. But we all hope that it's a passing phase in this low vacancy rate and we're going to get back to the approved rents. If they're taken away from us, then there's no daylight.

**Mr Marchese:** What you're saying to them is, "If you're going to have decontrol, please retain the legal maximum rent." I understand that.

I wanted to get into another point Mr Greenberg raised earlier about choice. That's the best protection for people and for tenants, he was arguing, so we need to let the private sector build. The problem is that the private sector hasn't been building too many units over the last six years. We're not quite sure why not.

**Mr Burns:** The last 20 years.

**Mr Marchese:** That even confirms more clearly for me why we have a problem. There's a demand problem, because in a traditional capitalist society if there's a demand there will be somebody who will supply it. So the reason why there's no supply is because, by and large, most people can't afford it.

**Mr Burns:** I don't agree they can't afford it.

**Mr Marchese:** Why aren't we building then?

**Mr Burns:** There is some building at the very high end. There are people who are quite happy to pay a high rent and have luxury accommodation. We have people who come to us and say: "Look, would you upgrade our unit? We want a jacuzzi. We want a microwave. We're not worried about the rent." We say, "We'd like to do it, but we can't."

**Mr Marchese:** I understand that part. So some units are being built at the high end; people will admit that. The problem many tenants here have of course is, who will build at the appropriate end where they can afford it and, more importantly, who will build for those who won't be able to afford it? As you know, a third of all tenants earn less than \$23,000 and many tenants are paying more than 30% of their income on housing. We've got a problem.

**Mr Burns:** That's why I said I support rent supplement. We have a lot of units in rent supplement voluntarily, not through any requirement, because there's a segment who cannot afford and never will afford the so-called market rents.

**The Chair:** Thank you very much, Mr Burns. We appreciate your input into our deliberations this afternoon.

**Mr Burns:** I hope it was of some assistance to you in your deliberations.

**The Chair:** We're now recessed until 5 pm.

*The committee recessed from 1600 to 1700.*

#### OTTAWA-CARLETON HOME BUILDERS' ASSOCIATION

**The Chair:** Good afternoon, ladies and gentlemen. As is our custom, we respect our presenters' time, so we will start on time. Our first presenter is Michael Noonan, the secretary of the board of Ottawa-Carleton Home Builders' Association, and he's accompanied by Caroline Castrucci. Welcome to our committee. You have 20 minutes, and

should you allow time for questions, they would begin with the Liberals. The floor is yours.

**Ms Caroline Castrucci:** Good afternoon. My name is Caroline Castrucci, and I'm president of the Ottawa-Carleton Home Builders' Association, and with me today is Michael Noonan, secretary of our association.

Briefly, the Ottawa-Carleton Home Builders' Association is the voice of residential construction in the Ottawa-Carleton region, representing over 300 member companies. Our members produced 97% of the region's housing last year. The OCHBA supports the proposed rent control reforms as a start in the right direction. The proposals outlined in the New Directions discussion paper address many of the concerns which landlords and developers of rental properties have been identifying for years. We certainly do not believe that the reforms will result in skyrocketing rents, as many critics of the reforms have asserted; however, these reforms will do little to encourage the construction of rental units.

Before the members of the Ottawa-Carleton Home Builders' Association will be lining up to construct rental units, a number of other legislative and regulatory reforms are required. To expand on some of these other required reforms and to revive the ones vital to the rental construction industry, I will now pass the presentation over to Michael.

**Mr Michael Noonan:** Mr Chairman and members of the committee, we intend not to dwell upon the discussion paper itself, because we believe the committee will have heard from deputants far more versed in the details of the rental business than our members. Our members typically are builders and developers of residential construction throughout Ottawa-Carleton. What I'd like to do is provide our thoughts on what is needed to jump-start the industry so the industry can get back into the business of building rental housing, and affordable rental housing at that point as well.

The very basic premise is that the industry will remain on the sidelines until such time as market rents and economic rents come closer together. At the present time, there is too large a gap to make it an economically viable proposition for any builder. When we look in Ottawa-Carleton at the average market rent for a two-bedroom apartment, we're talking something in the range of \$760 a month, and that's CMHC's figure for 1995. If we assume reasonable construction costs — in the cost environment in which we are working today, the cost to build a two-bedroom, concrete-type apartment unit would be something in the range of \$1,300 or \$1,400. That reflects the cost to carry as well as the hard and soft costs associated with the construction.

You don't have to be a mathematician to realize that \$600 a month would be needed to bump up the market rent to make it an economically neutral position. Any businessman in his right mind wouldn't have to look very hard to say, "That's going to put me into the poorhouse, and I will never see the day where I will be financially neutral, in a break-even position."

Our position is very clearly that there has to be a massive overhaul in the rental environment in order to invite the builders to come back into the market, and to come back into the market without necessarily relying upon direct subsidies from any level of government.



The overhauling of rent control and what is proposed in the discussion paper, as Caroline said, is a good first step. It is an important step at overcoming a lot of the regulatory hurdles that many landlords face today. Let's face it, the cost of regulation is very real, and it's a very real cost that is immediately passed on to the tenants. The landlords don't pay it; the tenants do, as part of their monthly rent.

That's only part of the equation. There are about four or five other key elements that must be looked at, that I believe the government is making a concerted effort to look at. We would only urge that this committee, in their discussions with their colleagues at Queen's Park, continue to reiterate these concerns and these points.

First of all, there has to be an overhauling of the property tax system. I think the committee has heard time and time again that the property tax system discriminates against the owners of rental property. In the case of Ottawa-Carleton, it's to the tune of two to three times; an ownership property would pay a third or half of what a rental property would be paying.

The second issue has to do with building regulations. Over the last 10 years, more and more changes have been made to the Ontario building code and the Ontario fire code, and the direct result has been that the cost of construction has increased. I agree that the housing is substantially better than what may have been built in the 1950s. Is it to the point where it's making an appreciable difference in terms of the health and safety of the tenants? I would suggest not. I suggest that in many cases the changes made to the building code have added to the cost of housing, which we and which landlords ultimately have to pass on to their tenants.

Third is the whole notion of regulatory streamlining. The changes which were brought forward earlier this year to the Planning Act I believe represent a good step. We appeared before a committee where they were discussing other changes to the Planning Act which would further streamline the regulations and help allow us to bring forward applications in a more timely fashion. For an application for rezoning or for a plan of subdivision or for a site plan application to take a number of months, if not years, is unconscionable and it adds to the carrying costs a developer has to add to the bottom line of a project and ultimately what would have to be factored in to the rent charged.

Planning and design control is another important consideration which seems to have gotten away from a commonsense approach. More and more, architects and planners are imposing their view of what is good design and what is aesthetically great design, to the detriment of coming forward with reasonable, affordable, modest, low-cost housing. I often say that one of the hallmarks of architecture was that function should follow form, but unfortunately, now function is following form — or vice versa. I probably got them twisted. Yes, I have got them twisted, so reverse what I just said.

**Mr Peter L. Preston (Brant-Haldimand):** Are you Liberal? Sorry about that, Richard.

**Mr Grandmaitre:** Your lunch-hour is finished.

**Mr Noonan:** It is often said that the architects often are our worst enemies in terms of coming forward with

some reasonable accommodation. They push forward ideas which are great from an urban perspective, but they are extremely costly and extremely pricey.

**Development charges:** I'm sure you've heard time and time again of the need to lower development charges. Development charges directly escalate the cost of new housing, whether they be single-family homes or apartments.

The interesting thing we would say about development charges and the construction of rental accommodation is that rental accommodation typically is most suitable to infill situations, situations that are well placed in the urban context, which allow them to take advantage of the established infrastructure that's there.

If they are taking advantage of the established infrastructure, one would suggest that there isn't a need to spend considerable amounts of money in terms of improving the infrastructure necessary to accommodate the new development. Rather than loading up development charges for new rental accommodation, one would suggest that a more balanced and modest approach could be taken whereby the recognition could be made that the infrastructure is largely there and the rental accommodation could take advantage of such.

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The final point, and I recognize fully that it's outside the mandate of the provincial government, is the goods and services tax. The goods and services tax establishes a two-tier system for new housing. It establishes one set of rules for stick-built ownership housing, whereby the consumer is paying what amounts to 4.5% of the gross selling price of the house, whereby in rental accommodation there is no rebate. The builder of rental accommodation is required to pay the full 7%.

If there were a concerted effort to marry together a regulatory package which addressed all the elements I've touched on here this afternoon, I think there would be a strong incentive for our membership and home builders across the province to get back into the market. The clearest step that could be made on behalf of all parties would be to lower that gap between market and economic rent and make it a sound business proposition once again so that the builders could get back in and build reasonable accommodation for the people of the province.

Thank you very much. We're more than happy to address any questions the committee may have.

**The Chair:** Thank you. We've got about three minutes per caucus, beginning with the Liberals.

**Mr Curling:** I want to thank you for that presentation. Although you said you wouldn't address what was in New Directions, you've actually addressed what should have been, and what the Lampert report has indicated are some of the impediments, why people like yourselves are not building. You're right on. The economic and the market rents are such a wide gap away that unless those things come together closer, where it's made more profitable for you to build, you will not build. The government would have to put all those in place, as you said, and then you may come into the market, which will take you some time to do that.

The government is speculating about selling off 84,000 units owned by the Ontario Housing Corp and has



stopped building on about 365 of those projects that would have given some support to those in the affordability area. If that's the direction in which they're going, what is your feeling about this attack on those who are most vulnerable in our society who need affordable housing? You wouldn't be building within another three or four years, even if you get all those things in place.

**Mr Noonan:** If within a matter of months a regulatory package was passed through the House, I'd feel fairly comfortable that there'd be a fair number of projects launched in this province. The industry is quite adept at moving to capitalize on emerging opportunities, and if there were a package brought forward whereby the gap between market and economic rent disappeared because of regulatory reform, I am sure the builders in this province would be lining up to build accommodation.

In terms of providing the protection to the most vulnerable members of society, I agree with you 100%. I think it is not necessarily a supply consideration but more of a social policy. It's a policy whereby the individuals who were most vulnerable need the income protection, and they need the income protection in terms of an expanded subsidy program or a housing supplement program. If there were that sort of program, there would be the monetary resources for these individuals to go and shop for the most appropriate housing for their particular situation, rather than having to wait in line for a spot to be made available either in a non-profit, a co-operative or an OHC unit.

**Mr Marchese:** Thank you for your presentation. I'm focusing on some of the remarks you made in two places, but the one I will focus on is in paragraph 5: "The combined effects of the Landlord and Tenant Act, the Rental Housing Protection Act and Rent Control Act have over the past two decades virtually shut down a once vibrant segment of the local and provincial housing industry." That, in your view, is really what's caused the problem for the developer not to build.

**Mr Noonan:** No. What I said in my presentation was that it's only one element of it. The other elements are the property tax system, building requirements, design control, development charges —

**Mr Marchese:** I appreciate that. It's just that the way I read it, it says these three have "virtually shut down...." It doesn't appear like you said it's one of the things, but that these three regulatory measures have shut the whole industry down.

**Mr Noonan:** I would agree that the regulatory environment, as it's expressed in the rent control system, has played a large role in shutting down a once vibrant industry. The facts are very clear that in the 1970s, there was a substantial and phenomenal amount of rental accommodation being built, but over the next two decades —

**Mr Marchese:** I appreciate that, but I want to ask you another question.

**Mr Noonan:** Just let me finish, if I could.

**Mr Marchese:** But I only have a few moments, and if you do that, I won't be able to ask any other question.

**Mr Noonan:** You might as well answer my questions for me then, if you won't give me an opportunity to answer.

**Mr Marchese:** Oh, no. I was reading your paper and that struck me. I don't think that's what's prevented the industry from building. You yourself admit that what's creating the problem is right here: "Builders will not return to the rental market until such time as the considerable gap between market and economic rents is bridged." That's the answer, and the person the Conservative government hired, Mr Lampert, says that. He says the gap is \$3,000, not a couple of hundred but \$3,000, \$2,900, more or less. There's a disagreement of hundreds of dollars, maybe a thousand or two.

You're saying if governments help you out somehow with a nice package, you might be able to come and build. That's basically what you said.

**Mr Noonan:** I didn't say that. I'm not looking for a handout and our industry has never asked for a handout. Our industry has merely suggested that there should be some sanity restored to the regulatory environment, overcoming many of the reforms that unfortunately your government instituted during the time you were in power.

**Mr Marchese:** I appreciate that.

You talked about a package — I wrote down the word "package" — and part of the package is in your proposal.

**Mr Noonan:** That's correct.

**Mr Marchese:** Lampert, of course, makes a whole other list of things that the industry is looking for. My view is that that's a considerable subsidy to the industry in order for them to get in. Why should we have to subsidize the industry with all the measures that you and —

**Mr Noonan:** I don't believe there's any subsidy there. I think it's just establishing a sense of order and rationality. For one example, for rental accommodation to pay two, three or four times what condominium accommodation does for virtually identical units — that's nonsensical. There's no reason a renter or a landlord should pay two or three times more than an owner for virtually the same unit.

**Mr Marchese:** That's one of the issues, but there are so many other things you're looking for.

**Mrs Marland:** Mr Noonan, I was very interested in your comments about the Ontario building code and the Ontario fire code. In the past, certainly when I was critic for housing and even critic for our revered Minister of Housing for the Liberal government, I had some debates at different times with Ontario Home Builders and the local home builders' groups. There's a moral obligation, I think, on behalf of all builders to do what they can, especially to make people safe. The building code requirements do deal with safety, as does, obviously, the fire code.

You were talking about the cost of those changes over the last 10 years. I was wondering whether you'd like to explain your comment vis-à-vis whether it's in light of retrofit only, which is a different challenge than new construction. Obviously, in new construction it's cheaper to put in sprinkler systems than a whole lot of other things now, which is permissible under the new fire code requirements.

**Mr Noonan:** You're right in that. Certainly the comments of the home builders' association relate to both aspects. We are concerned with the substantial changes



that have been made to the building code. Since 1990, for example, they've added considerable amounts to the cost of producing housing, whether it be ground-oriented housing — I wouldn't suggest it's contributed to the cost of apartment housing because there simply isn't any apartment housing being built by our members, so we really don't have experience in that.

I agree with you that builders have an obligation to their residents, to their purchasers, to ensure that the housing they're building is the safest it can be and provides for healthy housing. I believe we as an industry are providing that. However, certain changes — and I'll speak where I'm most familiar, which is the stick combination, the ground-oriented. It does illustrate a point that many changes which have been made to the building code are aesthetic changes. They are changes which don't necessarily improve the quality of housing from a safety or a health consideration but go directly to improving the overall package. But they are added on to the price in a mandatory way and the consumer doesn't have the choice to say, "Well, no, I'd like to keep my house basic and affordable and therefore I don't necessarily want these frills," so to speak.

With issues of apartments in high-rise, certainly the mandatory changes under the building code to deal with sprinklers and safety are good and appropriate measures, and our industry wouldn't be opposed to those.

**The Chair:** Thank you very much. We appreciate your input here this afternoon.

Speaking of revered former ministers of housing, Evelyn Gigantes is in the audience today.

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UNITED TENANTS OF ONTARIO,  
EASTERN REGION

LOCATAIRES UNIS DE L'ONTARIO,  
RÉGION DE L'EST

**The Chair:** Our next presenters are from the United Tenants of Ontario, eastern region, Evelyn Shore, June Boucher and Roslyn Denis. Welcome. You have 20 minutes. Should you leave any time for questions, they would begin with the New Democrats. The floor is yours.

**Mrs Evelyn Shore:** Good afternoon, ladies and gentlemen. My name is Evelyn Shore. I'm a tenant and I live here in Ottawa. I have worked for over 30 years in the areas of cooperative, non-profit, public and private housing. As such, I have seen many changes and fluctuations within all aspects of the issues relating to rental housing. I want to thank you, Mr Chairperson and members of your committee, for inviting me to make a presentation to you regarding the proposed new tenant protection legislation.

Today I will be representing United Tenants of Ontario, eastern region. UTOO is a provincial group that has been a voice for tenants in Ontario since 1989. Unfortunately, due to funding cuts by the provincial government, our office in Toronto had to close at the end of July of this year and we lost valuable staff. Eastern region of UTOO has been carrying on as a voice for tenants and will continue to do so.

Since eastern region covers a very large area, I must admit my disappointment that you did not choose addi-

tional places for your hearings such as Cornwall, Kingston or Belleville, as well as Peterborough and Ottawa. This would have given you the opportunity to gain a different perspective into the problems the tenants have in other areas of eastern region. For that reason, I have asked two other members of UTOO eastern region to join me. June Boucher lives in Lombardy, which is a rural community. Later, June will give her views on how this new legislation will affect rural tenants. Roslyn Denis lives in Hawkesbury and will express her views on how trailer park and other tenants will be affected. Roslyn is a francophone and will give her report in French.

On August 19, the Legal Clinics' Housing Issues Committee, LCHIC, presented a brief in Toronto to your committee. I understand that the brief is appended to the brief you received this afternoon from West End Legal Services. UTOO eastern region supports these briefs, and I am going to enlarge on the rent control issue as part of my report.

Rent control is a matter affecting real lives and real people in a very significant way. It is very important that the people who are trying to change rent control have a background and expertise with landlord and tenant issues. The original intent of the Rent Control Act was to protect vulnerable tenants in the low-end rental market. The rent registry has helped tenants to determine if their rent was legal and to challenge unscrupulous landlords by legal action. The present legislations are very important to tenants who live on fixed or low incomes, who cannot afford huge rent increases and are unable to compete for rental units when vacancy rates are low. Many tenants will be afraid to move because they will be forced to choose paying higher rents over food, clothing, medication and transportation.

When the provincial government killed the cooperative non-profit housing programs in Ontario in 1995, it also removed a housing option that thousands of tenants relied upon to supply decent, affordable housing.

Government has been cancelling housing policy to the point where there is no housing policy in the province of Ontario.

Rents are to be decontrolled when a tenant vacates a unit. This will only create a financial incentive for landlords to evict tenants. The discussion paper implies that the proposed negotiations between landlords and new tenants will take place in a fair manner between two equal parties. This is not so. Landlords and tenants do not have equal power. People need housing and landlords have more than their fair share of tenants who need to rent.

There are approximately 3.3 million tenants in Ontario, this being one third of Ontario's population, who occupy an estimated 1.5 million rental housing units. Tenants in Ontario pay \$10 billion a year in rent. Of this, \$1.5 billion goes to yearly property taxes. Based on these figures, you must agree that Ontario tenants are a major contributor to Ontario's tax base. With this in mind, UTOO eastern region strongly believes that the provincial government has no other choice than to listen to tenants and ensure that the present legislation for tenants will not be changed.



Maintenance and repairs: UTOO eastern region does not believe that the government's proposal will necessarily induce landlords to put money into building maintenance. There is nothing in the proposal requiring landlords to use the higher rents negotiated for maintenance. Many tenants do not report property standards violations. They are afraid of landlord harassments and many do not know their rights. The government should establish more programs where tenants could learn what their rights are. Also, what has happened to the 2% increase that landlords have been able to collect each year that was supposed to be used for repair and maintenance?

UTOO eastern region supports increased fines for property standards violations. The discussion paper indicates that one solution would be to strengthen the powers of municipal bylaw enforcement officers, but with the funding cuts to municipalities, these in turn have had to reduce services to the public.

One other solution would be to license landlords. If the landlord does not maintain the premises in good order or commits other breaches of the landlord's obligations, it would lead to a possible increased licence fee, the suspension of a licence, or the licence could be revoked.

The Landlord and Tenant Act: The government is proposing to take landlord and tenant disputes out of the courts and have the issue settled by a tribunal. We do not want this to happen. We see this as taking the right away from citizens of having their case heard in an open court. Instead, their disputes would be heard by a tribunal in a closed-door atmosphere.

If the new system is adopted, the government must ensure that the decision-makers are knowledgeable and neutral in landlord and tenant issues and are not political appointments made by the government of the day. If the government charges application fees for addressing these disputes, a user fee system to protect your rights is unjust for all tenants. UTOO eastern region strongly urges that a user fee system not be adopted.

The Rental Housing Protection Act: UTOO eastern region cannot agree that tenants will be protected if conditions are changed for conversion, demolition and renovations of rental housing. The Rental Housing Protection Act now protects tenants by preserving the province's rental housing stock. It also ensures that developers cannot arbitrarily convert apartments into condominiums. The majority of moderate and low-income tenants cannot afford to buy.

UTOO eastern region believes that changes to the Rental Housing Protection Act will mean that current rental housing will be lost through demolition, to other uses or conversions to condominiums. These changes will not help tenants, as the changes will result in an increase in unaffordable units and less housing options for all tenants. This committee must agree that your government has a responsibility to protect moderate and low-income tenants who depend on the province's rental stock for their housing.

Care homes: Presently tenants of care homes have security of tenure under the Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act, just as any other tenant in Ontario. However, if vacancy decontrol comes into effect, it will result in unaffordable

rent increases for new tenants in care homes. Transfer of residents should only be at the consent of the residents or substitute decision-makers. There definitely should not be any special fast-track eviction procedure for care home residents. This would be discrimination with a capital D.

Roslyn is going to give her presentation now. Now, as I said before, she will be speaking in French, so if you wish to —

**Mr Marchese:** Get ready for it.

**M<sup>me</sup> Roslyn Denis :** Bonjour. Mon nom est Roslyn Denis et je suis ici en tant que porte-parole des locataires francophones de LUDO, Locataires unis de l'Ontario, région de l'est. Je suis aussi présidente de l'association des locataires de ma région au nom des locataires, et membre du conseil d'administration de la Clinique juridique populaire de Prescott et Russell.

J'aimerais vous entretenir sur deux points qui me touchent plus particulièrement, soit les parcs de maisons mobiles et les droits des francophones.

Hawkesbury et les villages environnants est un milieu rural où on trouve un assez important nombre de parcs de maisons mobiles. La grande majorité des résidents de ces parcs de maisons mobiles sont les propriétaires de leur maison. Ils prennent fierté dans leur demeure et entretiennent la maison et la propriété qu'ils louent de façon impeccable. Les locataires font plus que leur part. Ils s'attendent du même engagement de la part du propriétaire du lot.

Les changements proposés concernant la nouvelle loi sur la protection des locataires seraient désastreux pour les locataires. Le gouvernement propose aux propriétaires de ces parcs de maisons mobiles de passer la facture aux locataires. Déjà, ces locataires font plus que leur part. Pourquoi seraient-ils responsables, dans plusieurs des cas, de la négligence des propriétaires ? Pourquoi les locataires doivent-ils payer la facture des réparations coûteuses lorsque le propriétaire n'a pas respecté ses engagements ?  
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Cette loi n'offre plus de protection aux locataires, mais vise simplement à enrichir encore une fois de plus les propriétaires. Devrons-nous changer le nom de cette nouvelle loi pour la loi la sur la protection des propriétaires ? Elle permet aux propriétaires qui ne font pas de réparations et qui ignorent les ordres de réparation du gouvernement de s'enrichir encore plus. Ce dont nous locataires avons besoin, c'est la justification pour les augmentations des loyers ainsi que le respect des ordres de réparation émis par les inspecteurs du ministère.

De plus, cette loi réduira de façon importante le nombre de logements abordables pour les locataires à faible revenu. En cas d'une augmentation substantielle du loyer, les locataires ne pourront pas déménager. En voici les trois raisons principales :

Premièrement, la rareté des parcs de maisons mobiles et la longue liste d'attente rendent la tâche difficile, même impossible pour les locataires qui cherchent un nouveau site.

Deuxièmement, le coût relié au déménagement est un autre obstacle important. L'équipement spécialisé et les permis requis sont des facteurs importants qui peuvent facilement faire grimper la facture de déménagement de 10 000 \$ à 12 000 \$. Il y a aussi le coût relié à l'installa-



tion au nouveau site, tels le raccordement de l'eau, de l'hydro et de la fondation de la maison mobile.

Le troisième obstacle, c'est dans le cas des maisons mobiles plus âgées. Elles ne sont plus assez sécuritaires pour pouvoir les déménager. Les locataires devront vendre leur maison à des prix dérisoires.

Le gouvernement doit donc reconsidérer son intention en ce qui concerne cette nouvelle loi. Sinon, nous risquons sérieusement de perdre le peu de logements disponibles à prix abordable pour les locataires. Cette loi n'offre aucune protection aux locataires et vise seulement à enrichir encore plus les propriétaires.

Ma deuxième préoccupation concerne les droits des francophones. Hawkesbury est située dans les comtés unis de Prescott et Russell, où habite une population majoritairement francophone. En fait, 85 % de la population de Hawkesbury est francophone. Avec toutes les coupures, il est déjà difficile de se faire servir en français. Lorsque des informations ou toute autre question est adressée en français au gouvernement, il faut être patient car souvent les préposés ne parlent pas français, et là on essaie de vous transférer à un préposé qui parle français. Alors, il faut s'armer de patience. Des fois on attend cinq minutes et d'autres fois on est moins chanceux ; on peut attendre jusqu'à 20 minutes.

Je sais aussi par expérience que lorsqu'on envoie un document en français au ministère du Logement, il faut compter sur quatre à huit semaines supplémentaires pour la traduction. Quatre à huit semaines, c'est long lorsque tu as besoin des réponses à tes questions.

Maintenant il y aura, avec cette nouvelle loi, un système pour régler les différends entre locataires et locateurs. Mais de quelle façon ce système fonctionnera-t-il ? Les locataires francophones, seront-ils encore une fois pénalisés à cause de leur langue ? Quelle assurance auront-ils d'être bien compris lors des séances de cette nouvelle forme de tribunal ? Les gens qui y siégeront, seront-ils complètement bilingues — pas seulement dire oui ou non, mais pouvoir parler, et surtout comprendre les discussions qui se dérouleront durant les séances ?

Beaucoup d'inquiétudes surviennent lorsqu'on parle de ce nouveau système. Faire face et défendre ses droits devant un propriétaire imposant, souvent très riche et influent, est très stressant pour un locataire. S'il existe en plus une barrière au niveau de la langue, je ne crois pas que les locataires auraient des chances de faire valoir ces droits. Je crois sincèrement que le gouvernement ne devrait pas réduire les fonds nécessaires aux besoins des francophones, mais les augmenter de façon à ce que les services soient aussi rapides et adéquats en français qu'en anglais. Merci.

**Mrs Shore:** June will now speak on behalf of rural tenants.

**Ms June Boucher:** My name is June Boucher. Until March of this year I was the east region organizer for United Tenants of Ontario. Prior to this I was connected for several years with the Ottawa Council for Low-Income Support Services, where I worked as a tenant organizer. My length of involvement with tenant issues dates back to the late 1960s, when I began with the Union of Tenants based here in Ottawa.

My 26 years of working and volunteering with tenants within the province of Ontario have given me a solid

understanding of the issues and situations tenants face on a daily basis. Today, though, I am here representing the concerns that rural tenants in the eastern region of Ontario have with the New Directions format. I myself am a rural tenant.

Rural tenants live in a rather unique situation. That situation is for the most part one of isolation. Due to monetary and transportation restrictions, many rural tenants do not have equal access to the information they need on protections that exist even under present legislation. There are no rent registry offices or housing help offices, and for many no legal clinic offices, in rural communities. How else to explain blatant discrimination and ignorance of present law in rental ads within rural communities? This lack of information applies to tenants and landlords alike.

In any given week in local newspapers, rental ads contain phrases such as "adults only," "no pets," "no children," "seeking employed tenants," "welfare okay," or more subtly, "mature tenants only." One can only hope these ads relate to ignorance and not abuse of laws under the present situation.

Rural communities by their nature tend to be close-knit. Everyone knows everyone else. This translates for many tenants to a very untenable situation. If you rock the boat, expose abuses and assert your rights under the law, as a tenant you may find it very difficult to find alternative accommodation. Most landlords know each other.

Repairs and maintenance in rural communities are standard in several cases. Not only do tenants not know where to go for assistance, but small municipalities do not have the staff or the teeth to enforce even the minimum bylaws.

One area of the New Directions paper in particular is of great concern. That area is in the negotiation proposal relating to leases and rental accommodation. Rural tenants at present come from a situation where the power base is mostly in the hands of the landlord for the abovementioned reasons. This proposal places rural tenants not only at an unfair advantage but at considerable risk. No equitable negotiation can possibly take place under this proposed legislation. Rural tenants need better access to support services and information, not less.

In spite of the aforementioned problems that rural tenants face, some progress has been made over the last several years. Due in a large part to tenants' support and information groups such as United Tenants of Ontario, the Federation of Ottawa-Carleton Tenants Associations, legal clinics, where they exist, and the presence of rent control, tenants have been taking successful steps to overturn and halt some of the ignorance and abuses that were and are taking place.

We strongly feel that the new tenant protection package proposed by the present government will hinder and hurt rural tenants in particular, and Ontario tenants in general.

In closing my section, I would like to say that a tenant protection package that offers tenants no real protection is no different from a health protection package that offers prophylactics that are faulty. At best, it is false protection. At worst, like a condom full of holes; it exposes people to unjustifiable risk.



I realize my aforementioned analogy may be offensive to some, but this proposed legislation is offensive to most. Thank you.

**Mrs Shore:** First of all I want to apologize that we do not have copies of our report available for the committee, but if you wish copies, they will be made available to you.

In summing up, the United Tenants of Ontario, eastern region, urges the government to slow down and take a good look at the proposed new tenant protection legislation. Will it really protect all tenants in Ontario or will it create a nightmare for tenants? What's your hurry? Please pay close attention to the old saying that advises, "If it ain't broke, don't fix it." Thank you.

**The Chair:** Thank you for your presentation this afternoon, ladies. We appreciate your input.

1740

#### DOUGLAS BAIRD

**The Chair:** Our next presenter is Douglas Baird. Good afternoon, sir. Welcome to our committee. Should you allow some time for questions in your 20 minutes, they would begin with the New Democrats. The floor is yours, sir.

**Mr Douglas Baird:** Thank you very much. First of all, I'd like to read a short letter that I wrote to Premier Harris when I sent my copy of what I'm going to talk to you about, so I'll read that first.

"I am enclosing a copy of my comments regarding your Minister of Housing's ideas to dismantle rent control. I will be appearing at the August 28 hearings in Ottawa. According to what I read, your government seems to be rushing into a situation" — and UTOO also says the same — "which they are not ready for. Please see that legislation is delayed until all avenues have been explored. The 2.8% increase for 1997 for some seniors, including war veterans like myself, could be demoralizing and is unjustified."

Now we'll come to the actual comments that I made regarding the proposal. The first indication of changes which will affect me came to my attention June 26 in the Ottawa Citizen. I question the government's sincerity for public consultation.

In my building of 10 units, no more than three tenants know of the proposal. How do you let 1.3 million households know about the changes? I can think of three possibilities: Require landlords to post information; mail a flyer to each residence; include information in MPP newsletters. There's probably a lot more, but bring those in and you might reach the people.

**Mr Patten:** No money for newsletters any more.

**Mr Baird:** At any rate, a two-month time limit for comments, particularly in the summertime, seems to be poor timing, hasty, and could lead to bad legislation. Please do it right.

My experience includes 35 years as a landlord and 20 years as a tenant — some of it overlapping, not too much. I had no problem in making a decent return on investment, yet keeping the properties in good condition, and this was up until the early 1980s. No need for capital cost expenditure special rent increase. The Income Tax

Act provides adequate means to write off expenses and capital costs. It's still there.

As a tenant, the stove and refrigerator are the same as when I moved in 20 years ago. Yes, the roof had to be replaced and a new heating system installed. I guess that's necessary in a 30-year-old building. It's to be expected. A prudent landlord such as mine would have finances set aside for such, and he did or they did.

I'll give you some facts. These are personal things just about me and people in my area. There's approximately 1,400 units in the project that I live in. There's high-rise, low-rise apartments, town and garden homes; 10 units in the building where I am located. Two tenants in the building have been in it since it was first occupied in the mid-1960s. As for me, my rent in 1976 went from \$276 a month till 1997 with the new 2.8% to \$772 per month. This is a 292% increase and it figures out at 14% per annum, if you take it all together.

The tenant turnover now — it wasn't before, but it's starting to go up — is about two per year in this building.

I'd like to say now that the package was misnamed. It is a proposal to dismantle rent control. How you can call this tenant protection, I cannot see for the life of me.

**Mr Sergio:** That's what it's called.

**Mr Baird:** Oh, I'm sorry. First of all, the message from the minister, Mr Leach, the second-to-last paragraph, refers to, "Who are Ontario taxpayers?" or he mentions Ontario taxpayers, but he also mentions tenants and landlords. I thought tenants and landlords were also taxpayers. I hope he thinks that way too, but his letter certainly seems to differentiate between the three.

There's no mention in the package about municipal-regional taxes and the fact tenants through their landlords pay such taxes at double or so the rate of homeowners. In this connection, could there be a sort of equalization considered? That is, reducing rents.

Further in the minister's message — and I'm not going to say that there's nothing right in the proposal or anything like that, but I feel he has maybe not considered some things, like the true problem, which includes human nature issues as I call it. I'm not talking about landlords or tenants, it's just people. First of all, there's non-acceptance of control for the general good; and then there's overzealous budgets to meet corporate-individual egos and goals. I worked for a very large company and I know what goes through. In fact, I worked for Northern Telecom for 35 years and it was good and I enjoyed it. There's also lack of respect for property of others, and apathy to social problems. Now those are just four; there's probably more, but we'll carry on from there.

Tenants' protection: Most landlords do not want any controls, and I guess I wouldn't either when I was a landlord. Fortunately, because my property was in Quebec, I didn't really run into it, but I was a decent landlord, as are some people. They will exploit loopholes. That's why I said most landlords.

I have been through three rounds of higher-than-guideline increases. None fully succeeded, but landlord manoeuvring and maintenance — that is cleaning; I call maintenance cleaning and that sort of thing — and capital expenditure areas was apparent. The landlord took these



cases to court, so there were stressful periods of long duration.

This has to do with one of the proposals. When a vacancy occurs, will existing tenants, and I'll be one of them, demonstrate their displeasure with rental price and capital expenditures negotiated with new tenants? I sure as hell will. In fact, I'll be right there at the door asking them, "How much are you paying and what are you getting done that I'm not getting done?" This could be particularly galling when one considers the present guideline includes a 2% annual increase for capital improvements which landlords seem to ignore.

The 4% capital expenditure cap is a sham. A couple of these in successive years could be devastating to a tenant. If you don't think they are, you think of somebody who's paying maybe \$600 and then add about another 9% to that, that could be devastating to them.

Tenants' protection: I support retention of the rent registry. It contains such information as hydro included or parking or whatever, as well as maximum rent.

Under privacy, page 7, I'd like you people, ladies and gentlemen, to look at it because it appears landlords can show a unit at any time after a tenant is given notice of termination. I don't think that's really intended, but it's in there and it makes me think that this presentation the minister sent out was not really thought about. There's no way they can come into my home at any time. If it's an emergency, yes, but to classify a termination in the same breath is quite something.

You're probably going to say: "What the hell's this guy going to do now? He's going to make a recommendation here which some of the tenant organizations will not probably agree with." But I see it because I remember the past.

The following to be acted upon, conclusions and recommendations:

Abolish the monetary monthly rental control by the year 2000 in conjunction with enforcement legislation as appropriate to tenants and landlords.

Rescind the 2.8% increase for 1997; freeze rents until revised municipal-regional tax structures are in place. Why in hell you didn't do this before you brought this sort of thing to our attention first I don't know.

Legislate fairness in tax so that municipal-regional tax structures are equal for homeowners and landlords and tenants. I see quite a bit more coming down the line. With your reduction to the regions it's going to cause big problems between landlords and tenants and property owners.

1750

Order landlords to offer leases to tenants reflecting the lowered tax structure. By that, I mean if there's a 10% difference, bring the rent down by 10%.

This you may not like either, and the landlords certainly won't, but maybe you can get this in so everybody would be — apply a 1% tax on gross rentals to be remitted by landlords for the purpose of supporting accommodation for low-income people.

Believe me, I'm not low income; I'm high enough up the stratosphere that I'm not going to worry as to what happens, but I just thought I would mention these things because I see people in my building who I know will be

devastated by some of the changes that are being proposed.

I thank you and I'm open for any questions that you may have.

**The Chair:** Thank you, Mr Baird. We've got about two and a half minutes per caucus, beginning with the New Democrats.

**Mr Hampton:** Thank you very much. I want to read to you something since you have some knowledge of this from both sides of the table. The government's own report, the report by Greg Lampert, economic consultant, says a number of interesting things. He says that part of the reason you're not getting new rental housing built is, "There's been a significant change in the way rental housing has been taxed." In other words, in the early 1970s the income tax rules made it very favourable to invest in rental housing. In fact, it was a tax scam. It was a particularly effective tax scam for high-income individuals.

**Mr Baird:** Yes.

**Mr Hampton:** He says that people won't reinvest in this form of affordable housing until they get their tax scams back. That's one of the things he says in this paper. He says —

**Mr Baird:** I've never read his report.

**Mr Hampton:** Okay. I want to take you to something else that he says.

*Interjection.*

**Mr Baird:** The only scams I know about were the quick turnovers and that sort of thing. Unfortunately, or fortunately, although I lived partially in Ontario during that time, I wasn't told. I didn't pay too much attention.

**Mr Hampton:** He also says a number of things we've heard developers ask for here today. He said developers don't want to pay development costs or they want their development charges significantly reduced.

**Mr Baird:** I know that. I'm aware of the increased costs, but it's governments who have brought in these increased costs. These could certainly be relaxed. I fully believe if you started to get to work at the bottom level, which is the 1% figure that I mentioned there, you would be getting — and I'm just throwing this out — about \$6 million a month, believe it or not, that could go right into accommodating poorer people. That's the way I see it.

After the war, when I first bought, I was helped by the government because I was able to get a 4.5% mortgage, and this has to start again. We're getting into roughly the same position. I see people today — and I'm talking about people in general, especially young people, but I also see the 40-year-olds in my area who aren't working, and they can't afford — you have to give something.

**Mr Maves:** Thank you for your presentation. I noticed right at the end of your presentation, one of your recommendations was, "Order landlords to offer leases to tenants reflecting the lowered tax structure."

In the paper we talk about, "The right of tenants to make a rent reduction...application at any time will be preserved. The grounds for decreases will be inadequate maintenance, reduced or withdrawn services and operating cost decreases for municipal taxes."

It's a question to you and maybe a question to ministry staff: If in a building there is a substantial tax reduc-



tion — as we know, in some places, tax on apartments is four and a half times what it is on a residence — if there was a substantial property tax reduction in a building with 12 units, could one tenant apply and reduce the rent by the property tax reduction for everybody, or would each one of them have to have a certain reduction? Would they all have to be individuals?

**Mr Baird:** It's a good question coming from a younger person who does not remember before rent controls.

**The Chair:** Mr Hardeman, did you want to take a shot at answering that?

**Mr Hardeman:** I would presume, and I stand to be corrected, that it would be the application of one, but if it was for a tax reduction it would have to be for the units involved.

**The Chair:** Mr Hardeman, do you want to use up the last —

**Mr Hardeman:** Thank you. I did want to carry on a little bit what Mr Hampton was talking about, the issue of the Lampert report. In fact, it was commissioned by the government. He was asked to look at the building sector, what it would take to make the private sector build housing for the rental market, and he came up with a number of recommendations. During this hearing we've been hearing a lot about how those recommendations are in fact a subsidy to the builder. I would gather from your presentation that you would be more supportive of the principle that it is a way of bringing fairness to the rental market, that in fact it is to reduce the cost of the rental housing so it's affordable for the people.

**Mr Baird:** I think so. It happened after the war. It's needed now because, as I started to try to say, what I see now is much the same as it was when I was a very young person in 1935, before the war, so many people not working and hanging around and living at home. At my home, which was a three-bedroom apartment because we had lost our home in the Depression, there were two other families. So I can appreciate what went on.

**Mr Curling:** I really do appreciate your presentation. It's very fair, and your experience of both landlord and tenant are all reflected inside your presentation here.

Let me follow through on one of the things that you said, and raised by Mr Maves too: the costs-no-longer-borne approach, and you really mention that there. Many landlords who have put a roof on came back and then the cost of that was included in their guidelines so they would be compensated for it, and even when that was paid off and tenants would continue paying for that, and then there's another roof goes on, and then they were paying for two roofs. So that will be reflected. That was resisted very much by the landlords at the time because they want that to be continued. So your presentation came very honest and smack face into that, and that is one of the things that should be there so that tenants are not paying two or three times for that same product.

**Mr Baird:** I figure that the rent that you're paying today pays for that roof tomorrow. That's the way I look at it. It's part of it. And the landlord, unless he's operating on a shoestring, should be putting money away to take care of any capital things that have to be provided, even a new Frigidaire, which I need.

**Mr Curling:** The other point you made is that it is important that government be involved in housing. When we say that, of course, there are regulations, there are subsidies, there is encouragement, especially to those who are most vulnerable, to access affordable housing.

**Mr Baird:** That's where the problem lies. If we don't support those who are in poorer circumstances, then we don't deserve to be here.

**The Chair:** Thank you, Mr Baird. We do appreciate your input this afternoon.

1800

## GORDON BROWNLEE

**The Chair:** Our next presenter is Gordon Brownlee. Good afternoon, Mr Brownlee. If you allow some time in your 20 minutes for questions, the government would be leading off the questions. The floor is yours, sir.

**Mr Gordon Brownlee:** I guess everybody's telling their own story today, and I think that's what I'm going to do myself as well. To give you a bit of a background, I'm an owner of a 10-unit apartment building here in Ottawa. My father is a firefighter and my mom is a clerk. I'm not from a wealthy background. I bought my first town home when I was 22 because I worked about 60 or 70 hours a week to be able to afford it. Through a succession of investments, when I was 29 I purchased a 10-unit building here in Ottawa.

This is where the story gets interesting. I purchased the 10-unit building. I hired a rental consultant who filed an application. Under the existing legislation I had a rent increase granted which enabled me to charge over and above the guideline increases of 5% per year for about seven years. I purchased the building in June 1990. On October 1, 1990, my rental application became valid. That was, coincidentally, the same date the NDP took power.

So I collected my new rent increase October and November, and then on November 28, the NDP government enacted a bill and retroactively denied my rent increase as of October and subsequently denied all future fees and increases. That left me with a building that I paid \$582,500 for, which was losing \$2,000 a month. I make \$47,600. I could not sell the building; I couldn't give it away.

So what do I do? I continued to incur the losses and try to fund the building as best I could. The building was in need of substantial repair when I purchased it. There was such a thing at that time called the low-rise rehab program, which coincidentally wound up immediately after I purchased the building as well, so I couldn't even really afford to make many of the necessary repairs. It was a very tough go and I just about went bankrupt, but I persevered.

I think it was in 1993 that market value assessment went through in the regional municipality of Ottawa-Carleton. That saw my property taxes increase by about \$6,000 a year, 40%. I couldn't pass that amount down to my tenants, because the NDP again enacted a bill which said that such increases in property taxes due to market value assessment were not eligible to be passed on to tenants. So instead of losing about \$20,000 or \$24,000 a year, I now lost another \$6,000, or about \$30,000 a year.



So as time went on, I continually lost more and more money until finally I'm at a point where I don't even know if I can survive. Do I walk away from the building after having lost all this money and then be garnisheed for the next seven years by my mortgage company, and do I walk away from the second mortgagee, who's another small guy like myself who can't really afford to give up the money?

So I persevered and I went to the Assessment Review Board to appeal my property tax increase. I won. I won a \$5,000 reduction of my property taxes at the ARB. I was very happy with that. I thought, okay, at least I get some relief. But then the regional assessment commissioner, region 13, appealed me to the Ontario Municipal Board based on the fact that I had my property, which I thought was in a pretty poor state of affairs, reduced from a category 3, average building, to category 4, below average.

At the same time, I might add that the city of Ottawa property standards people came on and put a note in my building that my balconies were in such a poor state of repair that it was condemned. Of course, the regional assessment commissioner is arguing at the same time that my property is certainly of average stature and that I should see them at the Ontario Municipal Board to defend this. So after contacting a lawyer — I was told that to hire him it would cost about \$7,000. I guess that's added on to the \$30,000 a year I'm losing. I do similar type of work for the federal government.

By the way, I work for Revenue Canada, and to my knowledge we have never, ever enacted a bill which was retroactive. If we enact a bill at Revenue Canada as of September 1, September 1 we don't accept applications any more. I don't drive down the road today doing 30 miles an hour and you'd reduce the speed limit tomorrow to 25 and come back and charge me for speeding yesterday. You can't do business like that; it's insane.

Anyway, I'm still in the process of fighting my appeal to ultimately win at the Ontario Municipal Board, but I'm still in a situation where I'm losing several thousand dollars a month. Through the help of my parents, I've been able to sustain myself. So to be absolutely frank, I just get incensed when I hear tenants complain about wealthy landlords. I don't know the stats and I didn't prepare a speech here today — I've prepared it for the last six years — but I'm not a big landlord. I don't make any money.

For the privilege of going and painting and cleaning and dealing with tenants and dealing with the headaches of running a rental building, I get the privilege of losing \$30,000 a year. Then I have to listen to tenants do things like argue with things that cost \$20 or \$30, which I just pay because it's not worth the headache of dealing with them. If somebody wants a new mat because I stepped on it while I was fixing something else in their apartment, I'll buy them a new mat because it's just not worth my time; it's not worth the stress in my life.

I think today the point I really want to get before this committee is that they have to understand that, sure, there's a lot of tenants in dire straits, but there's a lot of landlords out there that if you're going to take away the ability for them to make a profit, they're not going to

invest any money in these buildings. I don't do this for compassionate reasons; I did it because, to be absolutely honest, I wanted to provide an income for my family when I retired at some point. That's the reason I'm prepared to work, paint, spend money, spend my time with this building. For that labour, I expect to get a return, and I don't think that's unreasonable. It's a business. Nobody in the rental business is there for the good of their heart. Let's face it: They're there to make a profit. But if you take the profit out of it, they just won't be there any more. It certainly seems to me that the reason you are thinking about doing away with rent control is because it hasn't worked.

Just for argument's sake, I have two one-bedroom apartments for rent right now. I just rented one two nights ago, actually, so I have one left. The legal maximum rent on those units is about \$438. The one I'm advertising right now is for \$400. So why do I need rent control when I can't get the rents in some of the units that I'm able to charge right now?

So for me, as a landlord, I see two major issues here. I see, first of all, there's rent control; and second of all, there's the Landlord and Tenant Act. What really irks me is that if I have to pay \$20,000 a year in property taxes — and I understand some of the concerns of the tenants here and they're very valid concerns and each of us has their own story. But if I pay to the government \$20,000 a year because I own a building, why is it necessary that I must then directly subsidize my tenants to the tune of \$300 or \$400 in rent on some units, because that's what the market value of those units would be? Why do I have somebody living in one of my units, which is a very large, huge unit, that I could rent for probably \$1,100 or \$1,200 a month — he's paying \$721 a month when he makes more money per year than I do. So I have to lose \$30,000 a year to protect somebody who makes more money than I do?

I know this is just an isolated incident and it may not be the same in every circumstance, but certainly the reason in Toronto right now there's such a lack of rental housing is because you'd have to be a moron to go in and build something. If you want to put up a new building, you probably couldn't charge less than \$1,000 a month to break even. Why would you purchase a building in Ottawa or put anything else up right now? You have a glut of available space on the market. You can't rent what you have, certainly not at the legal maximum rent.

The reason I wanted to come today is I just wanted to give you one story of a landlord who, if I could do it over again, I would never have purchased this building. I've lost \$160,000 or \$170,000, which is going to take me years to get out of debt. The only hope I have to make any money or to even recoup any of my investment is if, in my personal circumstance — and I'm not speaking for everyone — rent control is changed so that upon the vacancy of an apartment, I can set my rents at maximum or market rent and then gradually increase my rents and nobody gets hurt. The new tenant's not getting hurt, because he doesn't have to rent my apartment if he doesn't want to.



1810

One final thing. I mentioned that my property taxes had gone up 40%. I'm sure all you knowledgeable individuals here must know this process, how they arrive at a market value assessment for a multi-unit residential property. What they do is, the assessor goes out and takes a poll. He takes a rent survey of all the available units throughout the city, and he divides the city into different areas, my area being the Glebe-Sandhill area. After a survey of all the multiple residential buildings in my area, he comes up with what they call a fair market rent. So the fair market rent for each unit is assigned, based on the average of all those surveys that are returned.

The fair market rent when I purchased my building for my three-bedroom units was \$650 per month. They use a formula then to calculate the value of your building for market value assessment purposes. The rent review board said I couldn't charge more than \$585 a month for those units. So here we have one government agency saying: "You should be getting \$650 a month; therefore, we're going to value your property on that \$650 a month, so your taxes are \$20,000"; and another government agency saying, "No, you can't charge more than \$585 per month for that apartment, because we won't allow you to."

We have one government agency saying, "Your apartment building's in great shape; you won your tax reduction at the Assessment Review Board and we're going to take you to the Ontario Municipal Board," and another government agency saying, "We're property standards, and your balconies are in such poor shape that we're putting an order on your building." I had to go out and borrow another \$20,000 to have the balconies replaced before another government agency probably took over and went and built them on me and charged me \$500,000.

I see I've got about five minutes left. That's one landlord's personal perspective. The system that you have right now is not working. The only way you're going to get more units built, is not through government intervention, but de-intervention. If the government gets out of the system, then you'll get landlords who can go in, who can build a reasonable property at a reasonable price, and you'll have adequate accommodations. The system you've got now is not working, or why would we be here? There wouldn't be a lack of rental space in Toronto if the system was working. What you have is the government building units which are poorly run, in my opinion, not very clean and in many cases substandard, and certainly no private people are going into the business. That's all I have to say.

**The Chair:** You've left a couple of minutes per caucus for questions, beginning with Mrs Marland.

**Mrs Marland:** Mr Brownlee, you didn't need to come with a prepared speech this afternoon. Your presentation was very succinct.

You've been living this, I guess you said, since 1990. You bought it five years ago.

**Mr Brownlee:** That's right.

**Mrs Marland:** What you've laid out so graphically, and on the record in Hansard of course, is the confirmation that the majority of landlords in this province are exactly like you are. They own, in most cases, fewer than six units.

The other thing you've put on the record — and I personally appreciate the way you did this — is the fact that, yes, you made an investment in a business — it would have been the same whether you'd bought a grocery store or you invested in a fleet of cabs or whatever it is — so you're entitled to a return on that investment. But the benefit of your making an investment in that particular business was that it also provided shelter for people.

I don't know where we ever got off on this idea in government that you can have the examples of the contradictions between agencies, which you've also illustrated so beautifully for us; to hear your level of frustration in terms of your personal circumstances which have been imposed on you by different governments and even different levels of government.

Frankly, isn't it interesting to hear you say that you have advertised a two-bedroom apartment in Ottawa today for \$400 — and you have to advertise it. There is the irony as far as I'm concerned. We're concerned about tenants who don't have accommodation and can't afford the right accommodation, but they will never have it, and the fact that we have fewer units now than we had 20 years ago proves that rent controls are not the answer in this province.

**Mr Patten:** Ditto to Mrs Marland's comments. This is government at its best. I'm sure that's your experience. You should write it up, because it would be a great case study for anybody studying public administration.

I sympathize with you. In fact, we've heard a number of stories from the small landlords just today, and frankly I think there need to be some issues addressed. It obviously shows that government has little capacity for flexibility. One size fits all. Try to address a Toronto problem and it has to apply to the whole province. It's endemic to government. I sympathize with your particular situation. I can't understand why there isn't some mechanism you can go before, why whatever representatives from whatever ministries or levels of government can't assess your situation fairly and say, "Hey, this guy is getting screwed," because that's exactly what's happening to you.

May I ask you, in your opinion, what you feel should be changed in terms of the proposals that are coming forward to at least provide — because it's an important part of the market — for small landlords to be able to survive. I see most of them as not trying to make a killing but trying to survive, with a minor investment for the future, and also provide an important service. What do you think are the key elements that should be in this legislation that's coming forward?

**Mr Brownlee:** There are two things that bother me, where I have problems with your proposal. First of all is the dissolution of the legal maximum rent. If I have a tenant who moves out, because of the economic conditions that exist in Ottawa today where I have to rent below my legal maximum rent, if the economic realities turn around and in the future I wanted to put my rent back up in a couple of years to what my legal maximum would have been, which is a fair market value rent, I would be unable to do so because I would be locked in



at the new guideline rate. So I would lose that extra cushion for the legal maximum rent.

Secondly, I have a major problem with the current proposals because you've got bad landlords and you've got bad tenants, but you will not always be able to get along with everyone. That's life and that's the same in every facet of life. If I have a tenant, for whatever reason, who doesn't like me or who wants to get even with me, it's my understanding that if they report a property standards violation, I could be fined up to \$10,000, not even having known that this condition exists. Because I can't enter any tenant's apartment at will, which has been illustrated by other people here, I don't think it's fair to me that if I am trying to do a good job and be a good landlord and fix things that need to be fixed, I should be penalized if something hasn't been brought to my attention prior to some individual who shows up and writes me a ticket.

**Mr Marchese:** Mr Brownlee, I appreciate the predicament you're in. I think everybody does. I'd like to understand. When you bought in June 1990, the building was obviously in great disrepair. Is that not the case?

**Mr Brownlee:** The building required a substantial amount of repair, that's correct.

**Mr Marchese:** Was it your sense that the previous landlord put any money back into the building at all?

**Mr Brownlee:** Well, I can't speak for the previous landlord.

**Mr Marchese:** But obviously the condition of repair was quite bad and probably it was like that for quite some time.

1820

**Mr Brownlee:** There were substantial repairs that needed to be done, but I felt, based on the increases that I was granted through the then legal legislation, that I could bring it up to standard with the increases in rents, which were then subsequently denied.

**Mr Marchese:** I realize, and I understand that. I just wanted to get a sense of whether or not the previous landlord obviously had neglected his or her responsibility to put some money back into the building, as so many landlords do, as I suspect you would like to do and would have liked to have done. I can see that you would have done that if you were the landlord. But obviously I don't get the impression the previous landlord put money back into the repairs of the building.

**Mr Brownlee:** I'm not sure. I can't speak for the previous landlord.

**Mr Marchese:** You were also aware of the rents that people were paying at the time. What were they paying at the time?

**Mr Brownlee:** For a three-bedroom apartment in June 1990, for my building, they were paying about \$565 a month. That's about a 1,200-square-foot apartment.

**Mr Marchese:** So from there the rent somehow went down.

**Mr Brownlee:** No. I was allowed to increase the rents up to about \$613 for two months, and then it was subsequently rolled back with the denial of the rent increase with the NDP bill on November 28, 1990.

**Mr Marchese:** The 5% increase was rolled back but also the amount —

**Mr Brownlee:** I still was allowed to keep the guideline increase, whatever that was.

**The Chair:** Thank you very much, Mr Brownlee. We appreciate your sharing your personal experience with us this afternoon.

#### ONTARIO RESIDENTIAL CARE ASSOCIATION, REGION 2

**The Chair:** Our next presenters represent the Ontario Residential Care Association, region 2, David Porter and Don Francis. Good afternoon, gentlemen.

**Mr David Porter:** Just by way of introduction, my name is David Porter. I'm executive director of Bearbrook Court Retirement Residence, which is a 122-bed retirement residence in the east end of the city. I'm a CA by profession and currently president of the local region of the Ontario Residential Care Association and also a standards surveyor for the standards process that we have in our association. Don Francis, my colleague, is owner and manager of Thornecliffe Place Retirement Residence, an 81-bed residence in the west end, with 25 years' experience as a property manager and currently treasurer and past president of the association here in town.

Mr Chairman and members of the committee, we applaud the government for differentiating between care home residents and tenants of regular rental units. Changing the focus from units to people is as welcome to residents and their families as it is to care providers. Our specific comments follow.

We support the abolishment of the so-called Residents' Rights Act, which deals with units rather than the needs of the elderly or disabled residents of care homes. We support the removal of care homes from the Rental Housing Protection Act, which acts as a roadblock for providers attempting to respond to the changing needs of residents. Frequently care home operators are called upon to alter suites to accommodate couples or individuals who require more or less space than the previous residents or to convert residential units into additional activity areas, nursing stations and so on. While current rules allow flexibility for operators, it is obviously preferable to have the underlying legislation removed.

We support the abolishment of rent registration, a cumbersome, ineffective and expensive exercise.

We support the strengthening of a landlord's right to refuse sublet tenants with reasonable cause. It is important to our residents that the character of their homes be preserved and, to us as care providers, that admission criteria be maintained.

We support the reduction in the notice period from 60 to 30 days for residents who must terminate their tenancies involuntarily. It should be noted that many ORCA members currently require 14 days or less in these cases and that care homes with residents receiving general welfare assistance cannot charge beyond the last day of occupancy.

We strongly support the change that will give care home staff 24-hour access, when requested by the resident, in order to deliver care or check on the resident's wellbeing. Current legislation requiring 24 hours' written notice or permission at the time of entry,



combined with the provision that prohibits contracting out of the Landlord and Tenant Act, means that our nurses must either break the law on a daily basis or leave frail, elderly people unchecked or uncared for. Typically, almost half of our residents need and want nightly checks and require three or four nursing contacts per day for medications or other forms of assistance.

We support the new provisions to permit care home operators to (a) transfer residents to other facilities when care needs change and (b) evict on a fast-track basis residents who pose a threat to others. Even with cooperative clients and a so-called fast-track system for those who resist transfers, long delays are the norm. Normally, when the care needs of a resident approach the maximum, the resident, family members and care home staff agree on a plan. An application to the local placement co-ordination service, PCS, for placement in a nursing home, home for the aged or chronic care hospital is the most usual result. However, such an application is not an available option until the resident's care needs are close to nursing-home level. Since that is the case, there is usually a long period of residency at the care home during which time the resident's care needs exceed the care home's normal limits.

In May, we were advised that in excess of 2,000 seniors were awaiting placement in the Ottawa-Carleton region. The delay from initial application to final placement is currently six months or more. As an example, one resident at Bearbrook Court who suffers from advanced Alzheimer disease has been waiting since January, and Bearbrook Court has been told to expect another three months' delay.

These cases can be managed if the resident or family agree to pay for extra nursing care either through the care home or private agencies or if they're able to access home care services. Problems arise when the resident or family refuses or delays the placement process and is unwilling to pay for extra care. This places the care home operator and his or her nursing staff in the unacceptable moral and ethical dilemma of choosing between denying necessary care because the resident will not pay or providing the care at the expense of other residents. With per diems which are less than half of those in homes for the aged, or even one quarter in the case of GWA homes, providing the extra care free of charge is not possible.

If the resident is cognitively impaired and in danger of wandering off, the care home provider has a moral and professional responsibility to offer protection but no remedy. Care homes, in most cases, are as open for residents to come and go as apartments. We have no legal right to restrict a resident's movement and insufficient staff in any case. Residents who become aggressive or threatening to others due to Alzheimer syndrome or various psychiatric conditions pose an equal problem. This is especially true in GWA homes where such residents usually share rooms with others.

In all these cases, rapid response is called for. We suggest that, where the resident or family is unwilling to cooperate, the care home operator should be able to initiate the process. Specifically, we suggest that care homes be formally included in the umbrella of services covered by the local placement coordination service. We

are fortunate in this area to have an effective and cooperative PCS, but this is not the case province-wide, and even in Ottawa the PCS is restricted by its governing rules. We suggest that the care home operator be able to initiate the placement process but only after the recommendation of a third party such as the local geriatric assessment unit or the house physician. Furthermore, we suggest that in such cases, that is where the resident or family has refused to cooperate, the resident and family be required to accept the first available placement in the PCS's catchment area.

We support the proposed changes for rent controls as improvements to the current system. Rent controls were completely unnecessary for our sector. In the five years prior to the application of rent controls to our sector, our increases were consistently below what would have been allowed under the controls. Furthermore, they are ineffective, since only the rent portion of the fee is controlled. In addition, this arbitrary splitting of charges causes great confusion for residents. Finally, they are inappropriate. The decision to move to a care home is a care decision, not an accommodation decision. Our clients are only interested in the total cost of living in our facilities.

Our preference in the long run is to remove care homes from rent controls and other inappropriate housing legislation. Our provincial office has dealt adequately with this point in its presentation. I just want to stress that point, that the provincial association's position was that they preferred the abolishment of rent controls.

I'll turn it over to Don now, who will deal with the rest of the presentation.

1830

**Mr Don Francis:** The following are the additional recommendations regarding issues not dealt with in the legislation:

We strongly recommend that paper flow required under the current and proposed legislation be simplified to accommodate the needs and wishes of our clientele, many of whom have designated powers of attorney precisely to rid themselves of the need to deal with these financial issues. Often they find a telephone bill or a bank statement confusing and possibly threatening. Documentation under the Rent Control Act is overwhelming for anyone.

Specifically, the care home information package and resident agreement should be combined into one simple package. We're presently faced with a situation where I have to put a four-page document in front of a prospective resident just to have proof in my file that I've made full disclosure, and that's whether or not they rent. So they're saying to me, "Why am I signing this?" It's ludicrous.

A single, simplified notice of increase covering rent, care services and meals should be developed with our association's input, we suggest. I'm looking at the situation right now, when I go to increase the rent on an annual basis, I'm giving a resident five pieces of paper. That's 10 pieces of paper by the time I keep a copy in my file. Obviously, the previous government did not like trees.

**Mr Marchese:** And you do, of course.

**Mr Francis:** Five pieces of paper makes no sense.

Most importantly, care home operators should be



permitted to give notices of increase to the power of attorney or other designated person where the resident or power of attorney agree. We're often requested on an informal basis: "Don't give it to the client, the person actually occupying the room. It will only upset them. The other person's paying the bills; they will deal with it." But the present act requires us to serve that resident.

We recommend that the exemption for short-term stays from the provisions of the RCA and LTA be extended to include respite and convalescent care. These are services which families, residents or doctors often request and which on a short-term basis we can accommodate. However, in most cases such residents are not suitable for long-term residency in a care home. Operators are reluctant to offer the needed services, fearing tenure rights may force them to retain residents they cannot adequately care for over the long term.

We recommend that care home operators be explicitly entitled to require residents to meet reasonable and consistent admission criteria and to accept a minimum service package in addition to accommodation. Despite the arbitrary division of our rates into rent, care services and meals, our rates are set taking all services into account as a complete bundle. We are only able to keep our rates as low as they are if all residents take the package. Residents requiring only accommodation are free to move to apartments, where they will get accommodation at a far lower rate.

We recommend that at the earliest opportunity municipalities be directed to completely revise the purchase of services agreements they sign with care homes serving the GWA clients. The resulting agreements should be in concert with all relevant legislation as updated by the current bill and should be standardized across the province.

General welfare assistance clients would very often be living on the street but for the existence of care homes serving them. They have often been discharged from psychiatric hospitals, frequently have no family support and without medications would not be able to continue functioning at levels required for community living. Very often, their lack of literacy or numeracy skills or their tenuous psychological states make them incapable of dealing with LTA and RCA issues.

In Ottawa, the contract signed by care homes to deal with these clients has not been changed since 1981. In many areas it does not exist at all. Furthermore, enforcement is inconsistent or non-existent.

We recommend that legislation be introduced at the earliest possible opportunity requiring all care homes to meet minimum provincially determined standards. We recommend that such minimum standards be enforced by a municipal inspection system paid for by the care home operators — that is, at no cost to the government or taxpayers. Care homes inspected under superior and approved inspection programs, such as that used by the Ontario Residential Care Association, would be exempt from these municipal inspections.

Ontario Residential Care Association members must submit to and pass rigorous, periodic standards inspections in order to retain their ORCA memberships. Residents who reside in care homes which are not inspected

by ORCA or similar organizations deserve the same kind of protection. The previous NDP government failed completely to address this important issue and instead chose to lump care homes inappropriately and unnecessarily under general housing legislation, thereby ignoring the care component of our services. The care component is the major element people move in for.

In closing, we wish to acknowledge the assistance provided by Sarah and Mark Porter, Dave's son and daughter, and Grant Abrams in the preparation of this document. Thank you for giving us this opportunity to appear before you today.

**The Chair:** Thank you, gentlemen. We've got just a little over a minute per caucus for questions, beginning with the Liberals.

**Mr Grandmaitre:** I can recall your presentation in Toronto some years ago when the NDP government introduced Bill 120, if I'm not mistaken, when you were lumped in as regular tenants, if I can refer to them as regular tenants.

I must say that I don't agree with the present legislation, but I do agree that you should not be included in this piece of legislation for the simple reason that most of your tenants are independent people who are not receiving any kind of subsidy from the provincial government. Am I right?

**Mr Francis:** Correct; all of my tenants.

**Mr Grandmaitre:** They're paying cash for what they're receiving.

**Mr Francis:** Yes.

**Mr Grandmaitre:** And they know the services that they're receiving and they know what to expect, as far as care is concerned, food and lodging and so on and so forth. So now the government will say I'm in favour of their legislation. I'm not saying I'm in favour of your legislation but I'm very, very pleased that finally the government is recognizing that home care residents cannot be lumped into regular rental units.

**The Chair:** On that note, we'll pass it to Mr Marchese.

**Mr Marchese:** But I have to say I am happy that the Liberals remain steadfast in their opposition to the removal of rent controls. I'm quite happy that that is the case still.

I have to say that there have been a number of deputations from mental health associations and the like who are very concerned by some of your — not suggestions, but things that you support that the government is obviously introducing. They see some of the basic protections of vulnerable people affected. So while you say, "Transfer residents to other facilities when care needs change," they argue, "Who determines that?" There's no language about what the criteria might be or how it is that you would do that, under what conditions or circumstances. They're worried and so am I, because we worry about how vulnerable people are dealt with. While we might assume that you're all good people, particularly the two of you, there are situations we've been told of in the past where some of the tenants there or people under your care don't get the kind of treatment they should be getting, are worried about violations of their privacy, worried about how they might be mis-



treated. Is that something you think people should be concerned about?

**Mr Francis:** Very much so, because care is a major element in our business, our care for our residents. The problem with the housing legislation in existence is that it does not deal with care. In fact, it throws roadblocks in our provision —

**Mr Porter:** That's exactly why we included our last recommendation, that all care homes in the province should be inspected under a provincially determined system.

**Mr Smith:** Thank you for your presentation. I would have to say over the course of the last week and a half that there's, at least in my opinion, generally qualified support for this part of the proposal. Mr Marchese raised an important area of concern, though, with those who haven't expressed complete support for this part of the report. Can you give me your idea of what the transfer process might look like?

**Mr Porter:** We haven't thought it through as clearly as we would like to eventually, and we understand that the government is inviting more input, which our provincial office is considering. But we understand that concern, and that's why we suggested in our presentation today that there be a third-party opinion prior to this process starting, such as the local geriatric assessment unit, which would do an assessment of the individual, or quite often the house physician. House physicians, please understand, are not on the payroll of the care home; they are just doctors who agree to take all the residents as their patients, or as many as want to be. If that person made a recommendation that this person now needs the care of nursing home level or the geriatric assessment unit, that should be a starting point for the operator to say, "Even though this resident is refusing, we can no longer offer the care they need and the placement coordination service should start the process of finding them a place where they really belong."

**The Chair:** Thank you, gentlemen. You've effectively used up your 20 minutes. We appreciate your presence today to give us your input.

1840

### OPTIONS BYTOWN

**The Chair:** Our next presenter is Michel Lefebvre, executive director of Options Bytown. Good afternoon, sir. Welcome to our committee. Should you allow some time for questions in your 20 minutes, they would begin with Mr Marchese.

**Mr Michel Lefebvre:** Good evening. My name is Michel Lefebvre and I represent Options Bytown, a non-profit housing corporation. I thank the government of Ontario for this opportunity to express myself concerning the possible elimination of rent control.

First, I want to say clearly that I am against the abolishment of rent control. I believe that regulations and controls are necessary. I am here to offer the view that the abolishment of rent control would have a negative impact on our agency and our social housing environment.

Options Bytown is a non-profit housing corporation whose mandate is to provide supportive housing to

homeless residents of shelters seeking permanent semi-independent living accommodation.

Since the inception of Options Bytown in 1986, we have received 1,384 applications but have housed only 356 tenants. Options has always maintained an extremely low vacancy rate, and tenants typically wait two years before being offered a one-bedroom unit or apartment.

Two years is very long, considering that 70% of our tenants come from shelters like the Shepherds of Good Hope, the Salvation Army, YMCA/YWCA, boarding-houses, rooming-houses and the streets.

Eighty per cent of Options Bytown's tenants live on disability pensions and GWA benefit — welfare; 49% of all tenants have a self-disclosed history of alcohol or drug abuse; and at least an estimated 60% have a diagnosed mental illness.

Options offers a non-judgemental intervention and flexible format allowing tenants to live in a pleasant, secure and communal environment. Eighty per cent of our tenants have maintained a successful tenancy with us and in subsequent low-income housing following a move from Options.

In the last decade, our tenants' capabilities and willingness to pay rent have been decreasing. New building rents far exceed the market and are inaccessible to the weakest members of our society. This is why I foresee increasing homelessness resulting from the abolishment of rent control. We will have more homeless than we have ever seen before in Ontario.

As for landlords or developers, they are losing money now in 1996 and would probably lose money anyway with or without an unregulated market in our present depressed economy, simply because the majority of tenants cannot afford to pay excessive rent any more.

The organization of Options Bytown is therefore against the abolishment of rent control and privatization of public housing for the following reasons:

(1) Because more homelessness will result from the abolishment of rent control.

(2) Because it is tough enough to pay rent now, and it will become even harder if there is no one to control rent increases.

(3) Because in Ottawa we don't take care of all our homeless people. Look at our waiting list. There are no new subsidies for housing projects to take care of our homeless people.

(4) Because of the uncertainty and the unfairness of no system. Without rent control, incoming tenants could be charged and treated differently from existing tenants.

(5) Because retaliation on maintenance issues, for example, could be devastating for tenants.

(6) Because of the uncertainty and anxiety created within the weakest members of our society, worrying that there is no one to protect them from exploitation.

(7) Because we believe that landlords have been making a profit and still can make a profit within rent control guidelines.

(8) Because we believe that bureaucratic flaws can be corrected to the satisfaction of all parties.

(9) Finally, because Ontario tenants want and deserve fairness, security and certainty. Effective rent control is necessary to prevent exploitation of vulnerable tenants



like ours. Rent control was created to prevent exploitation and government should stand by it.

As a landlord ourselves, we ask that if rent control procedures are modified, measures should be taken to decrease legal bureaucracy and improve the lengthy entanglement involved in administering the law. These often prolonged legalities, such as the difficulties with eviction, have greatly contributed to the loss of faith of landlords in rent control.

We need changes in the law and more skilled advocates to ensure fairness for everyone. "Landlords have enjoyed a 10-year winning streak where annual rent guidelines exceeded inflation." That was a quote by Dan McIntyre in the *Ottawa Citizen*, June 2, 1996.

Please do not abandon the social housing mandate, because there is simply no safety net in the economic marketplace. "Justice involves protecting the rights of others. It protects against everything that destroys human dignity" — a quote from Living Faith. In our world we need some guidelines to ensure fairness and satisfaction to all.

Options Bytown also belongs to the Community Housing Resources Coalition, whose mandate is to encourage the development of adequate affordable housing and support services for the needy. As a community, we are concerned that while the act claims to protect tenants, a reduction in rent control makes members wonder how that is going to protect tenants any more.

**The Chair:** Thank you, sir. We've got about four minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** M. Lefebvre, we had a representative from Minto and he was saying that they have been building a number of rental units in Florida. He blessed the Lord because there they don't have any rent controls and they can do that, and he says what we need to do is do the same thing here, basically do like they do in the US, remove rent controls by and large. He says if we do that, the market will find that equilibrium — he didn't use that word — that if we deregulate, the market will find that equilibrium and, generally speaking, will reach a level where people can either afford or not afford but, more or less, people will be okay under that system.

You commented on that briefly. Do you think the market will take care of many people at the lower end of the economic scale?

**Mr Lefebvre:** I don't agree. Maybe it will equilibrate between landlords and rich people and people who have the money to buy some buildings. But at the same time there have been some studies in the United States, particularly in New York and other places, that homelessness is really something that came out of no rent control act. A lot more people are living in ghettos now; even the police won't go there because there are abandoned buildings as there was no one to take care of the buildings. If you go to that kind of thinking, crime will get in. So I don't agree with that.

**Mr Marchese:** The government has said in one of their papers that when the decontrol the units, rents are not likely to go up too much. They don't say how much. From your experience, in terms of where you come from

or the people you deal with, is any small amount a problem for some of the people you work with?

**Mr Lefebvre:** Our tenants have difficulty living on what they receive right now. If there's a \$20 rent increase, they won't be able to do it, so they will go back to the street again.

**Mr Marchese:** I want to agree with your statement in (7) where you say, "Because we believe that landlords have been making a profit and still can make a profit within rent control guidelines." That is my knowledge of things. We've often quoted people who have said there has been a fairly good return in being in the rental accommodation market. I think that is the case. I think they've done relatively well. We have had examples of some individuals who came here — I think he got trapped in a particular purchase he made and then found himself in difficulties. I appreciate that kind of problem that individuals have gotten into, but by and large, the big landlord has done very well, and removing rent controls in the way they're proposing is going to hurt a lot of people.

**Mr Lefebvre:** I agree.

1850

**Mr Parker:** Thank you very much for your presentation this evening. I come from Toronto. I have a great many tenants in my riding, and I sense a great degree of dissatisfaction among them about the current system, for a whole host of reasons and on a whole host of points of concern.

One in particular, and I want to address this one right now, is the dispute resolution mechanism. I hear from my tenants that they have no confidence in the dispute resolution system we have at present. They are totally frustrated by it and they've given up even trying to use it. They find it's just not working for them and not worth getting involved in.

You make some recommendations about improving that system. I wonder if you could share with us your experiences with the dispute resolution system in your area, where it works, where it doesn't work and what recommendations specifically you have for improving it.

**Mr Lefebvre:** In Options Bytown, tenants are involved in everything, so it's working pretty good. Board members are tenants, and when you have a dispute we can take it out and talk with others. It's working well. Sure, there could be some improvement in the way the law permits us to do it; maybe there is a faster way to do it. But I think it takes time for people to get together, and we are taking time with our tenants to make some consensus, have some kind of agreement with tenants and landlords. I do believe it can be worked out, and it does at Options Bytown.

**Mrs Marland:** I heard you say what a number of tenants have said today. They refer to landlords as being rich people. I think maybe you were here for the last presenter, where Mr Brownlee is actually losing \$30,000 a year, minimum, on his investment, which in turn provided housing for people.

When you look at Marianna Fenton, who was a landlord earlier today, and listen to her circumstances, where do you think we get this confrontation between tenants and "rich" landlords? Most landlords are not rich.



Most have simply made a small investment of six units or less. I have to ask you very directly whether you have a reason to refer to landlords that way. We're certainly going to alienate anybody else who ever considered being a landlord and then we won't have any rental housing stock because nobody will want to make the investment.

**Mr Lefebvre:** To my knowledge, there is no requirement to be a landlord. You buy a property, then you're a landlord. It's a business for some, it's a living for others, and it's a place to save for others too. I don't see housing maybe as you see it. If you don't have the money, you can't buy your own property to rent it and see it as a business. I see them as rich, and I guess it's a different perception.

If you want to have my own experience, in my own family, the only person who owns something is my uncle, and he is very rich. Even if we want to get in the business, we can't. I guess the perception is that people must have money to buy some land or property and they can make money out of it. If they don't, well, it's like any other business: Get out of it, do something else.

**The Chair:** Mr Preston, can you do something with 30 seconds?

**Mr Preston:** Swear a lot? No. Thank you; I thank you very much for your presentation, sir. If, out of 1.3 million people in Toronto, a whole lot of them are rich, if making money was the be-all and end-all of being a landlord, there'd be a lot more landlords. They had 20 starts last year — 20 — so there were not a lot of people getting rich last year, because there were no new landlords.

**Mr Lefebvre:** It's a difficult economy too.

**Mr Sergio:** Thank you, M. Lefebvre. Thanks for coming and making your presentation. You have touched on a number of good points that are within and without the proposed legislation. The first thing you mentioned that got my attention is your mention of effective rent control. Of course, it is good to have a good system of rent control, but you've got to have some good, affordable units to have some control upon, otherwise where would you apply this so-good rent control? Unless you have both of them, you are going to have a number of units to provide for those in need and you have to have controls and make sure that those units will always be available for those needy ones.

Among the many things that you have mentioned, I think we have to take into consideration that some of the most transient special groups, if you will, are the students who perhaps move faster than any other group; every two months, we've been told, they tend to move. We have seniors, and not only healthy seniors, but we have those incapacitated by a number of either mental or physical disabilities. We tend to forget some of the most needy in our own society.

Having said that, do you think this is the best of times for the government to get out of the housing business, affordable or not, at a time when wages are going down, companies are laying off people? Do you think this is the best time to tinker with the rent control and one of the major social issues?

**Mr Lefebvre:** Of course, it's the worst time to get out of it. We have to stay in. It's necessary right now.

**Mr Sergio:** So if you had one message — because we hear from the government side, "We are here to listen," and the minister said, "Well, let me have some good recommendations and we'll see." We want to put the government and the minister to the test here. If you had a good recommendation, what would you say to us, to the members of the government?

**Mr Lefebvre:** I guess it's maintain the necessity of rent control. Maybe we could simplify the bureaucracy that's involved, but make sure it still exists and the government still stands for it.

**Mr Sergio:** I don't want to put words in your mouth, but in the absence of something better, would you say to us, to the members of the government, that unless you had something better, withdraw this proposed legislation?

**Mr Lefebvre:** Yes, sir.

**The Chair:** Thank you, Mr Lefebvre. We do appreciate your input today.

### STRATHCONA TENANTS' ASSOCIATION

**The Chair:** Our next presenters are the Strathcona Tenants' Association, represented by André Wikkerink and Mark Langer. Good evening, gentlemen, and welcome to our committee. You have 20 minutes. Should you allow time for questions, they would begin with the government. The floor is yours.

**Mr Mark Langer:** Good evening. I'm Mark Langer of the Strathcona Tenants' Association. This is André Wikkerink, who is the president of the association. We are here to submit a brief on behalf of the association, whose members live at the Strathcona apartment building on Laurier Avenue in Ottawa. Some of our remarks are going to be addressed to our specific situation, but we will extrapolate from that towards the more general situation.

The Strathcona is a 97-unit apartment building constructed in 1927. It is a heritage property located in the downtown Sandy Hill neighbourhood. All but two of its apartments fall within the classification of affordable rental housing as defined by the Ministry of Housing.

Members of the Strathcona Tenants' Association have studied the New Directions for Discussion paper and have listened to some of the presentations before this committee. We wish to comment on both.

On August 20, one landlord told this committee about an injustice caused by the fact that smaller rental units occupied by the most transient and poorest tenants were disproportionately more expensive than the larger rental units. He called on the government to address this perceived inequity. However, the government's proposed reforms would not solve this situation. They would exacerbate it, leaving long-term tenants in large apartments, people with stable jobs who are less likely to move, less affected by rent raises than those who move more often.

In this landlord's submission, he stated that one tenant makes \$150,000 a year and is chauffeured to work in a large limousine each day. We're not sure why speculation about the income of a single tenant should be entered into a brief when the income of the landlord is omitted. In my five years in the Strathcona, I've never seen a large limousine pick up anyone from the building.



The tenants of the Strathcona Tenants' Association are real people who are typical of most in Ontario. Let me give you some examples. Some are the elderly, who have been in the building since the 1950s and live on modest pensions. One pensioner phoned me last night to say she would be praying for me today. There are a couple of young elementary school teachers who celebrated the birth of their first child a year ago, only to find out a few months later that their jobs were lost when the board of education cut back positions. There are students in my building, there are underemployed and there are unemployed. Yes, there are middle-class people and professionals in the building too. We form a cross-section of the Ontario population, with citizens of all walks of life, colours, creeds, classes and national origins living harmoniously together. We share common interests with our landlord in that we take care of our apartments, love our building, and we pay our rent on time.

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Let me tell you what our landlord has planned for our community. Andrex Holdings has a proposal with the city of Ottawa to convert the Strathcona to condominiums. In the process of conversion, Andrex Holdings proposes to evict the current tenants. Its application contains no undertaking to extend tenant residency beyond the minimum notice required by law, 120 days. The result of this is that almost 100 affordable units will be taken off the market, and under the proposed new legislation, their inhabitants will lose all protection of incumbency.

Conversion will not provide affordable home ownership opportunities for tenants. To use our landlord's proposal as an example, my unit will be sold for \$150,000. Since I've just written a cheque to my landlord in excess of \$900 for my next month's rent, one could hardly call a \$150,000 mortgage an affordable option to the present arrangement. Other tenants would be in similar straits. Where are we to go? Under the proposed legislation, to other apartments without the protection of the current rent control guideline formula given to sitting tenants.

We agree with the discussion paper that the present Landlord and Tenant Act and the Rental Property Protection Act are imperfect documents. For one thing, the Rental Property Protection Act does not impose a demand for compensation or give special rights of continued residence for tenants in heritage properties. Those tenants do not enjoy the protection granted to those living in non-heritage properties. Neither does the current act require the consent of the majority of tenants to condominium conversion. More equitable protection should be extended to such people in any proposed legislation. Where a landlord and a significant majority of tenants agree on a condominium conversion that is in the interests of all concerned, it is difficult to think of reasons why they should not be allowed to proceed. But rights extended to one group of tenants should extend to all. The law should not permit a landlord to turn one group of tenants out of their homes without the consent of the majority and without compensation. Under the current legislation, this can and is happening to tenants in heritage properties.

But it is not just the members of my association who will suffer. We will face the same dilemma as hundreds

of thousands of other Ontarians who must change accommodations, and you've already heard of people who have lost their spouses through death and divorce, those who have lost their homes through a loss of jobs, young families with new children requiring larger accommodations, the elderly and disabled who must move to new quarters more suitable to their needs. These will all lose their current rent control guideline protection.

The New Directions discussion paper states as a goal for the new tenant protection system reforms to focus protection on tenants rather than on units. The discussion paper proposes that current rent control guidelines be lifted whenever an apartment is vacated. Unless the current rent control protection is transferable from one unit to another whenever tenants move, what the discussion paper proposes under rent control reform is the exact opposite of its stated purpose. It focuses protection on units rather than on tenants. The law would force tenants to stay in their current rental accommodations or else lose protection which is dependent on their continued occupancy of a particular unit. The protection would be inherent in the unit and only as long as the tenant manages to cling desperately to it.

We call upon the government to take concrete steps through legislation to do what they say they will do: focus protection on tenants by making sure that they do not lose their current rent control status when they're forced through circumstance to move. In most cases, the current rent control system does this. By restricting current rent control guidelines to sitting tenants, the proposed legislation does not.

In the hearings so far, we have watched landlord after landlord maintain that maintenance problems are due to rent control. We are waiting in vain for the parade of landlords ready to open their books to this committee to demonstrate what they've been doing with the roughly 2% per year compounded increase in rent that was to go for repair and renovation. Over the last decade, this compounding has accumulated to the point that 17.6% of current rent consists of money that is supposed to pay for building maintenance. Have landlords convincingly demonstrated to this committee that almost 18% of the building's revenue is not enough to pay for necessary maintenance?

The New Directions paper proposes giving landlords up to 4% rent increases to cover capital expenditures. It claims that landlords need more incentives to put money into maintenance. Several people have already testified in front of this committee that \$1.7 billion is collected annually that is supposed to be used for maintenance and capital expenditures. Isn't this money sufficient incentive? If it isn't, what would give landlords greater incentives to use this money for its intended purpose? More money, or demands for more scrupulous accounting of already allocated funds, coupled with more vigorous inspection and prosecution for failure to properly maintain buildings?

Why not better police the existing system? The proposal to have the province withdraw from enforcing maintenance standards in municipalities which already enforce their own standards will have the effect of reducing enforcement. Municipalities are already suffering from



financial strain and are unlikely to hire more employees to aid already overtaxed enforcement officers.

Before rent control is tampered with in any form, at the very least it would be necessary for landlords and their associations to demonstrate that past and projected future increases under the existing legislation are insufficient to take care of repairs and renovation. The current provincial government is proud of its prudent financial management in a time of fiscal restraint. The principles of prudent management suggest that before this government gives more money to landlords through easing current rent control provisions and allowing landlords more money for maintenance and capital investment, government should, at the very least, demand that landlords demonstrate materially, not just anecdotally, how they've been using the \$1.7 billion each year.

The New Directions for Discussion: Tenant Protection Legislation paper states that the ministry wants to reform the tenant protection system to, among other things, create "a better climate for investment in...new construction." Ten years ago, the government attempted to do this through an increase in rents. We are still waiting for the explosion in new construction that was to follow. Before this committee, time and time again, tenant, landlord and construction industry representatives have said that lifting rent controls alone will not produce new construction. Loosening of rent control and higher rent income are not magic bullets. These changes should not even be considered until other factors have been addressed.

Voices as diverse as landlord Lorraine Katryan, the Ontario Home Builders' Association and the Fair Rental Policy Organization point out that high land costs and high taxes are responsible for the lack of apartment construction. Even the Lampert report, whose study was paid for by this government, agrees that the cost per unit to build new construction exceeds the market value rent that tenants could or would pay. We note that builders and owners of rental construction properties are rarely the same companies. The idea that deregulation of rent control and increasing existing landlord income will encourage the construction of economically unviable new apartments by construction firms is little more than wishful thinking. It has not worked in the past.

Before even considering a modification of current rent control legislation, you would have to address the problem of land and construction costs, as well as taxation. Otherwise, think of the future the government would be ushering in. Scrapping the Rental Property Protection Act will cause condominium conversions to increase, diminishing the supply of rental housing.

Although the New Directions document envisages a future where landlord and tenant mutually agree on rent, a lack of supply inevitably will force the cost of rental housing up. A scenario which produces short supply and fewer regulations in the rental marketplace does not provide a level playing field. It significantly tips the scale in favour of the landlord. In an environment of short supply, high demand and few barriers to rising cost of rental units, tenants in now affordable apartments simply will be squeezed out of decent housing or out of an unreasonable amount of their income. Who would this benefit? Certainly not the 47% of Ontario residents who live in rented accommodations.

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A number of sources, from Citibank to the Russell report, all agree that the average annual return on equity in the rental housing industry in Ontario is 10%. The Russell report states that this 10% annual return rises as high as 30% in some years. Mr Wayne Wettlaufer of this committee has observed that in some years, the annual return on equity in the industry was as low as minus 10%. We are unsure of the point that Mr Wettlaufer was making. We would like to ask the members of the committee if they can think of any form of investment with annual returns on equity as high as 30% that does not entail any risk. Does the province of Ontario need to ensure a greater than 10% return on equity over a decade for landlords only? Why privilege this group of investors?

In closing, the Strathcona Tenants' Association would like to thank the committee for allowing us to present our brief. We will follow the government's actions in this matter with great interest, both through the press and through our elected representatives.

**The Chair:** Thank you, gentlemen. You've left about two minutes per caucus for questions, beginning with Mr Smith.

**Mr Smith:** Thank you for your presentation. I want to focus on the portion of your presentation that dealt with conversion, and obviously it's an issue and a process that you're dealing with on a personal basis right at the moment. As you're aware, the paper outlines three questions that deal with this specific issue. I'm just wondering if you've given any specific thought to the issue of the appropriateness of extended tenure, compensation models, what they might look like, how they might be calculated where conversions are taking place, and what majority-type approval would be required for tenant conversions. Given your recent experiences, have you put any thought towards those issues at all?

**Mr Langer:** Yes, I've given some thought to some issues and some of them have been discussed within our organization. It is not uncommon in non-heritage properties for tenants to agree with landlords on lifetime continued residency within properties or 25-year continued residency within the property. Of course, because of people's rates of moving, this doesn't mean that all tenants would indeed stay that long, but it would certainly give tenants the right to have security of tenure within their location to continue renting under rent laws.

As far as requiring tenants' consent, it's my view that a significant majority would have to vote in favour, since landlords have the ability to plan far into the future. Since landlords determine who gets to live in the building, a landlord also has the ability to pick and choose people who might favour or not favour a conversion, so I think you would have to have a fairly significant majority to make sure the deck isn't stacked in that sort of way. I think, given the kind of turnover rate within a property, that a 70% or a 75% majority would be a reasonable majority.

**Mr Curling:** Thank you for the presentation. I think it's an excellent presentation because of the kind of musical chairs this paper tells you about, how the conversion will take place when someone moves out of their home; in regard to decontrolling the rents, what will



happen. As soon as you leave, one of those units comes off the supply line of rental, so they will go into the condominium market.

The experiment that they would like to do here was experimented on in England, where they sold off most of those homes, even in the non-profit area, giving them to the tenants. What happened was that the best units went and the worst units remained. Do you see the same thing happening, that people will be buying the best, so therefore those who are stuck with the worst units will be there if you sell off those rental units, leaving the rest for the worst that will not be sold?

**Mr Langer:** On one hand you're talking about public housing units, and I'd like to limit my response, if I may, simply to the implications of this in regard to condominium conversion, what would happen in condominium conversion. Many of the buildings that come up for conversion are older buildings where larger units have been subdivided in the past. These now form housing for low-income people. To make them more desirable for high-income purchasers of condominiums, many landlords wish to group several existing apartments, knock out walls, do renovations and turn them into one large apartment, which would have a much higher market value. Also, many older buildings have limited parking spaces, which would also encourage the combination of existing rental housing into larger units.

One landlord earlier in the hearings, as I was watching on TV, went on about "Ontarians are overconsuming space." Condominium conversion would actually take a very efficient use of space, many people in relatively small units, and turn it into fewer people in much larger units, which would be a much less efficient use of the already existing housing stock.

**Mr Hampton:** I want to thank you for doing a very thorough job. You've obviously been following this committee, I would say, on an almost daily basis. That's to be commended.

You refer to the Lampert report and you refer to some of the other information that has come before this committee. I want to just go over some ground that you covered in part. Lampert says that if you want to induce developers and landlords into building more apartments, you'd have to deal with the property tax issues; you'd have to get rid of the application of the GST; you'd have to do some changes to the federal Income Tax Act to make it more lucrative from a tax point of view for people to invest in this kind of property; you'd have to do something about development charges; and also you'd have to find some ways to make it easier to access financing. He goes through these. He says if this whole package isn't dealt with, you will not induce developers and financiers and entrepreneurs and landlords into building more apartments for lower- and middle-income people. They won't come in because they won't make the profit that they want.

I don't see any of these things. I see a Conservative government that brought in the GST; I see a Liberal federal government twisting in the wind now trying to figure out what to do about the GST; I don't see any income tax changes coming. If these things don't happen and the only thing that comes off is rent control, what do you think is going to happen to rents?

**Mr Langer:** I think I've made my case clearly that I believe rents are going to skyrocket because there will be a smaller supply of apartments and there will be fewer constraining factors to keep things from going up.

One thing that disturbs me very much about this discussion paper is that while the paper itself talks a lot about taking care of tenants, not very far beneath the surface there seems to be a strong ideology of pure free enterprise. I've spent six years living in the United States, although I am a Canadian, and I've experienced living in a country with a much stronger ethos of free enterprise. While I'm not opposed to modified free enterprise system, I've seen how the housing market is dealt with in the United States, where the manufacturers of cardboard boxes are major contributors to the housing needs of people in American cities where, more and more, the wealthy are living in walled enclaves while the poor are being separated into terrible inner-city conditions, and in the walled enclaves, no matter how high those walls go up, they will never get high enough to protect people from the outrage of the ones living outside.

**The Chair:** Thank you very much, sir. Thanks for taking the time to make a presentation to us. We appreciate your input.

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#### EASTERN ONTARIO LANDLORD ORGANIZATION

**The Chair:** Our next presenter is Luigi Caparelli, president of the Eastern Ontario Landlord Organization. The floor is yours, sir.

**Mr Luigi Caparelli:** My name's Luigi Caparelli. I am a small landlord here in Ottawa. I am also a rent control consultant, and I am appearing this evening as president of the Eastern Ontario Landlord Organization.

Our organization has been in existence since the fall of 1990. We currently have approximately 200 members who own or manage some 40,000 rental units in eastern Ontario. Our membership includes some landlords with several thousand rental units, as well as many small landlords with only two or three rental units.

I have provided you with a copy of a fairly extensive brief which responds to most of the issues identified in the discussion paper. I don't propose to go through this whole thing this evening. What I will do is simply go through some of the highlights and some of what we consider the more important issues.

It has been proven in jurisdiction after jurisdiction that rent controls are bad public policy. They distort the housing market and do not deliver affordable housing to the people who need it.

Ontario has now had rent controls for over 20 years. Prior to the introduction of rent controls, the private sector built some 15,000 rental units per year. This figure dropped off dramatically following the inception of rent controls so that by the mid-1990s, the private sector has virtually ceased building rental units.

It is our position that tenants can best be protected by a combination of the free market and shelter allowances for those tenants in need. Rent controls need to be phased out. It appears that this government has no intention of doing that.



We have prepared this brief to respond to what is proposed. All suggestions and recommendations in this brief must be read with the knowledge that our fundamental recommendation is the phasing out of rent controls so that the free market can work.

It is also important to realize that the removal of rent controls will not, by itself, be sufficient to encourage significant investment in the construction of new rental housing. For that to occur, the government will have to remedy the problems of the discriminatory property taxes on rental housing, the building code, the long planning approval process and the discriminatory application of the GST.

Among other goals, the government wants to create a better climate for investment and maintenance and new construction, therefore creating jobs and improving the supply and quality of rental housing.

The discussion paper proposes to give tenants a major benefit in this reform; namely, the elimination of maximum rent. The main benefit for landlords appears to be vacancy decontrol. However, what the discussion paper proposes is not true vacancy decontrol. True vacancy decontrol would see units that become vacant free from the control permanently. That would protect sitting tenants and let the market operate. If the government will not remove rent control entirely, then true vacancy decontrol would be the next best thing for landlords, for taxpayers and ultimately for tenants. Unfortunately, the discussion paper does not propose true vacancy decontrol. What the paper proposes is a system of vacancy decontrol and then recontrol. Will that system meet the government's goals? The answer is no.

Whether there's any benefit to landlords in vacancy decontrol and recontrol depends on how the rents in a building compare to rents that would be available if the building were free of rent control. There's no benefit to landlords whose rents are at or below their legal maximum rents. Because of the depressed condition of the rental market, these units make up 85% to 90% of the rental units in Ottawa-Carleton and the rest of eastern Ontario. In fact, there is serious harm to landlords in this position.

In a falling market such as we have now, vacancy decontrol and recontrol will have little effect on a landlord's revenue. The landlord must absorb the revenue losses. That is what has happened in Ottawa-Carleton for the last three years.

Now consider what will happen in a rising market. On units re-rented at the low rents, the landlord will now be limited to the guideline increase, even though rents are lower than what was charged before. Vacancy decontrol/recontrol will slow the growth in the landlord's revenue because it will only increase significantly on units which turn over. The landlord will not be able to make good the revenue losses experienced during the previous slowdown. The problem will exist even if turnover is constant in good years and bad years. In fact, it will not be. Tenants will tend not to move when other rents are relatively high but their own rent is low; they will move when other rents are relatively low. This will mean that rents will be reset when the market is low. The proposed vacancy decontrol/recontrol will operate in the

downward direction, not the upward direction. Landlords do not control vacancies; tenants do.

Decontrol/recontrol does not recognize that landlords need the good years to make up for the bad years. As with other aspects of rent control, it is the possibility of profit which is cut off. The possibility of losses is always with the landlord. The possibility of profit must be there as well.

We understand there have been predictions that there would be large rent increases on many rental units in Toronto if rents were decontrolled completely. We do not know if that is true, although we suspect the predictions are much exaggerated. We do know that in Ottawa-Carleton there would not be large increases on more than a small percentage of rental units. The units in question would be those with chronically depressed rents where the landlords have been subsidizing their tenants for years.

The vacancy rate has long been used as a measure of the tightness of the rental market and whether rental housing is available in sufficient quantities. For example, condominium conversions have been allowed when the vacancy rate exceeds 3%. If the government will not bring in decontrol or even true vacancy decontrol across the province, then it should bring in decontrol in rural areas and in census metropolitan areas where the vacancy rate exceeds 3%.

If the government will not bring in decontrol, then it should preserve maximum rent. Maximum rent is crucial in allowing landlords to balance the good years against the bad years. Maximum rent also encourages capital work. The market moves at times different from the need for capital work in any particular building. Now maximum rent bridges the gap between the need for work and the periodic rises in the market. Maximum rent encourages landlords to do capital work at the optimum time for the cost-effective preservation of the building. Without maximum rent, landlords will be driven to delay work until the rental market rises so they can collect extra rent increases when the market allows.

The current guideline increase is designed to compensate property owners for the fact that each year there are inflationary increases in operating costs, such as municipal taxes, utilities and maintenance. The increase also has a component of 2% above the rate of inflation which is supposed to provide a slight profit for owners as well as provide an incentive for property owners to improve their property. It should be noted that some 70% of all rental units in the province of Ontario are at least 20 years old. The age of these properties dictates that extensive maintenance be performed on an annual basis. Without a realistic expectation of profit, there's little incentive for a property owner to pour ever-increasing amounts of funds into the maintenance and improvement of these properties. The guideline must include the 2% for profit and unclaimed capital expenditures.

All versions of rent control in Ontario have recognized that increases above the guideline are necessary for reasons such as capital improvements, extraordinary operating cost increases or increases in financing costs. If the province of Ontario is to continue to have rent control based on a system of cost pass-through, any such system



must incorporate mechanisms which allow landlords to obtain above-guideline increases for the items mentioned above.

Maintenance has been one of the most contentious, problematic areas of the current Rent Control Act. To begin with, it is a duplication of a process already performed by the municipalities. Municipalities, through property standard bylaws, already have a process in place whereby landlords whose properties do not conform to standards can be ordered to carry out the necessary repairs. If a landlord fails to comply with the order, he or she can be fined and the municipality can have the work done and the cost added to the property taxes. In other words, the goal of the process is to ensure the work is done.

The Rent Control Act, on the other hand, imposes an undefined standard of "adequate maintenance." If a rent officer finds the standard is inadequate, he or she has the power to order rent rebates and lower the rent. Once this has occurred, there is no mechanism in place to raise the rent once the work is done. In other words, the goal of the process under the Rent Control Act is to punish the landlord, not perform the required work.

While the maintenance section of the discussion paper is quite vague, there are some comments that are very disturbing. The government states that the violation of a property standard will be made an offence. The government then states that the process will be streamlined so that a notice of violation will no longer be required and fines to individuals will be increased to \$25,000 for a first offence and \$50,000 for subsequent offences. This is not acceptable. There are numerous bylaws which deal with very minor items that have little or no effect on the enjoyment of day-to-day life. Some of these items involve the inside of a unit. The process envisioned by the government could lead to the absurd situation of a landlord being fined for an item on the inside of an apartment, such as peeling paint, which the landlord did not even know about. There should not be any penalty unless the landlord has received a work order and failed to comply.

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Our organization believes that all accommodation should be safe and should not pose any health risk. Beyond this, the standard to which a property is maintained must be a function of the rent being paid. It is not reasonable to expect an apartment renting for \$500 per month to be maintained to the same standard as one renting for \$1,000 per month. The goal of any maintenance criteria must be to ensure that apartments are safe and to provide landlords with an incentive to bring and maintain units up to standard. This will not be accomplished by slapping a landlord with a fine before he is even aware there is a problem. Landlords must be notified in writing that there is a problem and must be given a reasonable period of time in which to comply. Only once they do not comply within a reasonable period of time should fines be levied. In addition, landlords should not be faced with a permanent reduction in rents for any violation.

The discussion paper also proposes a new dispute resolution system. It is the government's intention to

create such a system, independent of the courts, to adjudicate rent control matters as well as landlord and tenant matters. This system is to deal with rent increases and decreases, illegal charges, termination of tenancies, rent rebates, abatements of rents and maintenance provisions.

It is vital that any such system is open, easily accessible, speedy and inexpensive for participants. The largest single complaint from small landlords is the time and cost of resolving issues, both rent control and landlord and tenant. In the past, it has not been uncommon for rent control decisions to take one to two years to be resolved. This is grossly unfair to both tenants and landlords. It often results in tenants owing thousands of dollars in back rent, which places tenants in great difficulty and places landlords in the awkward position of attempting to collect back rent from long-time tenants or trying to find past tenants. In many cases, the cost of collecting the back rent exceeds the amount of the back rent. This process must be altered so decisions will be rendered before they take effect.

The dispute resolution body should be an independent agency responsible to the Ministry of the Attorney General or to the Legislature. The agency should be composed of decision-makers with a support staff. The decision-makers should be qualified individuals, preferably with experience or background in landlord and tenant law, building maintenance and property management. Rules of procedure must be established which the decision-makers and staff would be required to follow.

In conclusion, we are disappointed with the discussion paper. In view of the many statements made by Premier Harris and members of his cabinet, it was reasonable to assume the government would be moving to a true market-based rental housing policy which would encourage the maintenance of existing buildings and investment in the construction of new rental housing. While the discussion paper states that these are its goals, the solutions proposed will not serve to accomplish these goals. The government is not moving towards a free housing market, and thus its hope of encouraging new construction and better maintenance of existing buildings while giving tenants adequate choice of housing will not be met. Thank you.

**Mr Curling:** Thank you for your presentation. I just wanted to focus on an area of rent increases which also may be taken into consideration with maintenance. I just want to re-read what you said: "The annual guideline increase must continue to adequately compensate landlords for inflationary increases in operating costs," and you list them, "plus an allowance for profit when the market allows it." In your guideline, isn't that what it takes care of?

**Mr Caparelli:** That's the theory, yes.

**Mr Curling:** Okay. The maintenance in itself: It is now said that there are about \$10 billion worth of repairs to be done to buildings. What did they do with the money all the time they were given it to take care of all these incidentals? Now this huge maintenance has to be done, and it is said, "We can't do it." The question I ask then: What was being done before?

**Mr Caparelli:** I would suggest that there was a period of time from about 1975 to the 1980s when inflation was



running at 13% or 14% a year and rents were frozen at 6% a year. So the money isn't there. Landlords never got the money they should have received so that proper maintenance could have been done. We seem to forget the history of rent controls.

**Mr Curling:** No, I don't forget it all. In 1985 and 1986, when it came in, the landlords and tenants sat down and came up with a proposal: This is what's to be done. Get a guideline —

**Mr Caparelli:** That was in 1985.

**Mr Curling:** That's right. They were looking at all of that. Then it moved on to improve it somehow. Now they say: "Take this away. Leave that in the hands of the landlord now, and they will take care of tenants." They did not take care of their building. Why would people believe now that landlords will take care of those tenants who did not take care of either the building or the tenants?

**Mr Caparelli:** I'm not sure I entirely agree with that. I think that period, from 1985 to about 1990, did see a tremendous amount of renovations occurring in buildings right across the province. It was only when this legislation was changed again in 1990 that there was a virtual stop in renovations.

**Mr Curling:** So it's \$10 billion between now and then?

**The Chair:** Thank you, Mr Curling. Mr Marchese.

**Mr Marchese:** Mr Caparelli, a few questions. The previous deputation made a very good deputation, I felt, and they asked some good questions. One of them was that government should, at the very least, demand that landlords demonstrate materially, not just anecdotally, how they've been using the \$1.7 billion they have been getting each year. Would you be opposed to demonstrating how the landlords have been spending the money?

**Mr Caparelli:** Not at all. We've heard some stories today, and I think a few of those people would be more than happy to show you their books. We also have on record a presenter that you saw earlier today, Minto, which has for years maintained that they would be happy to show you the books on some of their properties.

**Mr Marchese:** That's great. I'm happy to hear that. Perhaps the government will take that into account as we go through these things.

You mention on page 17 something interesting: "Standard of maintenance must be related to level of rent." Your organization believes that "all accommodation should be safe and not pose any health risk. Beyond this, the standard to which a property is maintained must be a function of the rent being paid. It is not reasonable to expect an apartment renting for \$500 per month to be maintained to the same standard as one renting for \$1,000 per month."

Basically it means this: If you've got the money and you pay the higher rent, it should be maintained at that level; if you don't have the money because you're not earning a good income, you happen to be at the lower end of the social scale, then we sort of accommodate you as best as we can. Something like that?

**Mr Caparelli:** What I am suggesting is that an apartment that is being rented for \$500 a month isn't going to be decorated as often, isn't going to have

appliances replaced as often. A lot of us make do with appliances that are 20 years old. They may still work. If somebody's paying \$1,000 a month, they may want appliances changed every five or six years and they may be entitled to that if they are paying that kind of money. I think there is room for differentiation.

**Mr Marchese:** I get the picture. Your organization believes: "Rent control is bad public policy. It does not encourage new rental housing. In fact, the figures show that new private rental housing virtually ceases to be built in jurisdictions with rent control. It also fails to provide any incentive to properly maintain existing housing." What evidence do you have for that?

**Mr Caparelli:** I think the evidence is all around us.

**Mr Marchese:** Anecdotal evidence. Any research?

**Mr Caparelli:** I think it's beyond anecdotal. I think you can walk into any building and you can see that there has been a decline in the way the buildings are maintained. Surely there's a reason for that.

**Mr Maves:** Thank you, Mr Caparelli. Continuing on with Mr Curling's discussion, and we're trying to crystallize this in our minds a bit, since 1975 there's been a guideline increase which you've been allowed to take. You haven't necessarily taken it every year because the market hasn't borne it.

**Mr Caparelli:** Correct.

**Mr Maves:** That's supposed to help you keep up with inflation and maintenance. As I look at it, from 1976 to 1995, if you had taken your guideline increase every year, you'd be behind inflation by 2%. So if you didn't take it — and I'm assuming that you, like other landlords we've talked to in Toronto, Thunder Bay and elsewhere, haven't been able to take it — you're probably much further behind the inflation rate than 2%.

**Mr Caparelli:** The problem is that from 1975 till 1985, if in any one year the market didn't allow you to take an increase, you lost it forever. Even if the landlord had a good tenant and chose not to take his 6% increase in one particular year, that increase was lost forever. So there are all kinds of reasons and situations whereby a landlord today would be much further behind than the rate of inflation.

**Mr Maves:** So not only because of the guidelines; if you haven't been able to take it, especially in the last few years, not only are you behind inflation but your argument is that you haven't got anything built in there for profit or maintenance?

**Mr Caparelli:** Exactly.

**Mr Hardeman:** I wanted to go back to the issue of the enforcement and the fact that you want to stay with the work orders and the offences, the not complying with the work order as opposed to the landlord being charged with the offence. Do you not feel it's appropriate that if a chief building official comes and checks it and you are in infraction of acceptable standards, that should be chargeable at that time to look after the tenant's needs?

**Mr Caparelli:** The problem is that there are a lot of situations whereby a landlord would have no knowledge that there is a problem. Landlords do not regularly go into units to see if there is a problem. They should at least be notified that there is a problem. That's all we're saying.



**Mr Hardeman:** I can accept the need for some type of notification, but do you envision that the chief enforcement officers would be immediately laying charges if in fact the landlord had never been notified of the infraction?

**Mr Caparelli:** The way the proposal reads, that would be entirely possible. I'm willing to accept that most reasonable people wouldn't do that, but it's possible.

**Mr Hardeman:** I guess my question was, is it probable?

**Mr Caparelli:** It's possible.

**The Chair:** Thank you, Mr Caparelli. We do appreciate your input here this evening.

Our next presenter is Dan McIntyre, executive director of the Federation of Ottawa-Carleton Tenants Associations.

**Mr Marchese:** I would like to take a moment to make a motion, please. I know we haven't done this too often and I know that Mr McIntyre would like to have an hour to present here today and that's a bit unreasonable, and I know that most of the deputants would have liked to have spoken longer. But this is one of the bigger tenant associations that we've got in the whole of the province and I would like to move that we give this organization half an hour to do their presentations. Given that they're the last to present, I think we can accommodate that.

1940

**Mr Preston:** Can I speak to that? I would think that Minto was one of the larger landlord organizations in the province and I didn't hear Mr Marchese ask —

**Mr Marchese:** Where were you, Mr Preston? You could have made that motion.

**Mr Preston:** Twenty minutes for everybody.

**The Chair:** Are we ready to vote? Any further discussion on the motion? All those in favour?

**Mr Skarica:** Wait a sec. I have something to say too. I really don't mind a half-hour, but that's not fair to the other people who were cut off at 20 minutes, and some of them were totally cut off. I don't care if it's Minto or other tenant organizations; I just don't think that's fair.

**Mr Curling:** We can go through what is fair and what is not fair. We have some time here and this is a very large tenant association, and I also would like to see many others make some presentation. However, if we're going to start being picky about that, I think half an hour — we're talking about 10 more minutes, for God's sake, that we are asking the groups to do. I would strongly support this. I understand that some others were denied, but I would support this.

**The Chair:** All those in favour of the motion?

**Mr Hampton:** If I could just make one comment on this, it is the end of the day and it is the largest tenants' group in the whole eastern part of the province. They're asking for 10 minutes to give us a more fulsome presentation. I think that's quite a reasonable request.

**The Chair:** All those in favour of the motion?

**Mr Curling:** Can we have a recorded —

**Mr Marchese:** A recorded vote.

**The Chair:** All those opposed? The motion is defeated.

**Mr Curling:** No recorded vote we asked for, Mr Chairman?

**The Chair:** Nobody asked for one.

**Mr Marchese:** No, we did.

**The Chair:** Just for your information —

**Mr Curling:** On a point of order, Mr Chairman: We did ask for a recorded —

**The Chair:** I did not hear, Mr Curling, anybody ask for a recorded vote.

**Mr Marchese:** Actually, Mr Curling did.

**The Chair:** Okay. Sorry; I didn't hear. Just for the information of all the people in the audience, the decision to have the presentations be 20 minutes long was a decision agreed to by one member from each party, so it's not something that was imposed by the government; it was an all-party decision.

**Mr Sergio:** Are we going to debate it now for 10 minutes?

#### FEDERATION OF OTTAWA-CARLETON TENANTS ASSOCIATIONS

**The Chair:** Sir, you now have 20 minutes. If you allow time for questions, they will begin with the New Democrats.

**Ms Della Kirkham:** I'd like to thank Mr Chair and other members of the committee in advance for your patience and attentiveness today. I know it's been a rather long day for you all, one of the many as you've gone throughout the province and will continue to, but you just have to be a little more patient and a little more attentive to us for a few more minutes and then your day is over.

Allow me to introduce myself. My name is Della Kirkham. I am a tenant and I am the current chair of the Federation of Ottawa-Carleton Tenants Associations.

Our federation has worked for 14 years to represent the interests of tenants in this region. In so doing, we have always advocated a rental system that is both fair and equitable. We are therefore quite happy to be here tonight and to share our views on the proposed tenant protection legislation. Furthermore, we hope the government will continue to listen to tenants after this hearing process is over and to consult with us in a meaningful dialogue prior to implementing any major changes to the rental system.

I would now like to introduce my fellow tenants and colleagues here at the table with me. On my far right is David Loan. He's a vice-chair of the federation. Immediately to my right is Susan Payson, who's involved in the Saville Terrace Tenants' Association here in Ottawa. On my left is Dan McIntyre. He is our executive director and he will speak to you for a few minutes about many of the issues we have raised in the brief we have submitted to the committee. Dan's expertise in tenant issues and tenant law is widely acknowledged throughout the province. His wisdom is derived from about 15 years of diligent work and activism in the tenant community. I trust you look forward to his comments and I urge you to give them serious consideration.

**Mr Dan McIntyre:** If I might, I'd first like to just talk directly to the government members, and I certainly welcome the opposition members to listen in.

I know that going through a committee process like this is very difficult, because this is about the fifth or



sixth time I've appeared before such a committee and every government takes a you-know-what kicking no matter what they're putting on the table, so I appreciate the position you're in.

I know what the position of tenants has been and ours isn't going to be much different, so don't think I'm going down that path, but I do want to say that you've done, as a government, one very wise thing: You've put this out as a discussion paper and not as a policy paper. What that means is you've said to the province of Ontario: "This is what we think. What do you think?" And now you're hearing what we think.

Now you have an opportunity to do something fairly extraordinary for a government, to say: "We've heard from the tenants of Ontario, we've looked at the facts, and we're not on the right track at all. Maybe we should just take some time, sit down with stakeholders from all sides of the issue, really get the facts on the table, and if we're going to make changes, we're going to do it right." That would be an extraordinary step for government to do, rather than bed themselves into the very first thing they happen to say on any given topic. I encourage you to do that.

I'm about to give you a lot of stuff that you're not going to like hearing, and you're getting used to that. I understand that. I'm also going to promise I'm going to say some things that these folks aren't going to like. But I want you to know that we, as tenants, want you to get it right. As a professional advocate for tenants, it would be unprofessional and unethical, if this government gets it right, for me to say, in public, anything but that. It has nothing to do with partisanship. Our job is to help governments get it right. You don't have it right yet, but you've got a chance.

With that, I'd like to do a little bit of a history first, before we get into some of the details of the brief.

My history goes back to 1981. About a year after I got involved, I found myself testifying as an expert at the Thom commission on rent control. If I knew then what I know now, it might have been a different testimony. I don't know. Why did the Thom commission happen? Because the Cadillac Fairview scandal exposed that unfortunately the system that the Conservative government in 1979 brought in was full of holes and needed to be fixed. So you brought in the Thom commission and said, "Help us fix this." The number one mandate of the Thom commission was not to decide whether or not rent regulation, it was to decide how to bring in a good system — a very commendable objective of that.

However, events passed you by and in 1985 Mr Curling and Mr Peterson got duly brought into government, and they got brought in, in part, because of an accord signed with the NDP which called for reforms to rent regulation. And I'm going to tell you something: They didn't get it right in the accord on how to deal with rent regulation. They put the emphasis in the wrong places. What they said was, "The priority is to bring rent review in to cover all units."

Mr Curling's government took the position: "If we do that, we won't have any supply, but we're committed to it. We signed the accord." Mr Curling and I have differences, but I consider him one of the most honourable

men in Parliament. He looked to find a system he could sell that would keep the promises they made but would provide inducements for supply and inducements for capital investment in rental property.

In my view — and this is 10 years of history — they didn't get it right. They brought in a very bad piece of legislation. And guess what? They went to the NDP, asked for their support and didn't get it. They went to the Conservatives and got it, and got the votes, including the vote of the Honourable Mike Harris who voted for Mr Curling's Residential Rent Regulation Act of 1986. The only two Tories who voted against it, by the way, were Susan Fish and Cam Jackson. You might want to raise that with him when you get back to Toronto.

This legislation set off two fast tracks of rent increases. One was a high guideline policy which included a 2% inducement throwaway bonus to landlords to be good landlords, to have money for capital repairs and other odds and ends and make more money. It was quite blatantly put there against our objections. It also built in all sorts of giveaways and overallowances for everything under the sun: capital expenditures; rates of return of 300% on every capital dollar spent. If you needed to go to rent review, you hired a consultant and they added a buck and a half to the rent for the tenant to pay for the landlord to have a consultant. You could refinance buildings, get vendor-take-back mortgages and get all sorts of fantastic increases — 5% a year — for as long as it might take to pay off the VTB; all sorts of things for extraordinary increases. If interest rates went up, landlords got a rent increase; if interest rates went down, the government didn't care to hear about that.

#### 1950

It was totally a system that put a fast track on those increases, but also allowed for the guideline increase to be above the level of inflation, starting in 1987 and continuing right through to this year. Ironically, it was above the level of inflation in 1986. Someone quoted my article: "Eleven-year winning streak: landlords 11, inflation nothing."

The NDP came into power — you all remember that — and they had a much stronger promise on rent regulation than any government before them. They were met with a vociferous attack by landlords, "If you don't put money in this system for capital expenditures, the buildings will fall apart," after we had seen, for four years, increases commonly 30%, 40% — in one case 188.9% — based on capital expenditures. What the NDP did was effectively a compromise. They stopped the fast track on the increases, the skyrocketing 30s and 40s and even 10s, 11s and 12s, and that was good; they didn't stop — and Ms Gigantes knows I tore a strip off her on this — the high guideline policy that continued to place 2% into the guideline each and every year.

I'm going to guess a lot of you here are parents. I tried to think of an analogy that might work. Let's say your children say to you, "We need another 150 bucks every year in order to pay for school supplies," and you say, "Well, I guess that's reasonable." So the first year, you give them 150 bucks. The second year, the way it's set up — you set up a contract with them but they conned you — you give them 300 bucks. The third year you give



them \$450. After 10 years, you're giving your kid \$1,500 for school books. The nerve of that child to come back and say, "I don't have enough money for school books."

That is effectively what you are hearing on capital expenditures. For 10 years, tenants have been paying the till, feeding the trough in order to finance capital expenditures. It's all there in the rent. If you took the 2% out of the guideline over the last 10 years, it is effectively 17.6% of current rents. A rent of \$500 10 years ago today would now be \$771 with just guideline, and \$136 of that increase is the 2%. If you extrapolate that over the total amount of money being paid in rent, you have the \$1.76 billion.

If you want to accept FRPO's estimate — and that's all it is — of \$10 billion needed for capital works, that means if you could find a way to harness that money in current rents — we're not saying that's simple to do, we're just saying it's a fairer thing to do — you'd pay for the whole thing in six years; six years, without a single dime of rent increase.

If you're in a non-profit or a condominium, you must, as a matter of law, put money in a reserve fund. Landlords are not required to do that, and that's bad policy. We told that government that, we told that government that and we're telling this government that. When we start looking at it that way, there are some answers. We're not saying it's simple, we're just saying there are answers within the current rent structure. It's totally unfair to forget the compromises made on capital works and now come and say, "We can't fix up buildings."

That's the history of how we find ourselves paying the rent. Tenants are the ones investing in rental property through their rents. We find ourselves now in a situation where it's being suggested that we've got to give up more in order for more supply to be built. That's one thing I think the landlord people here have agreed with us on: You can't do it with these measures; it's not going to happen. It's probably not going to happen if you do the whole shebang. So why should we pay the higher rents and not get the end result that's desired? You just don't have that right, and that's why our fundamental recommendation to you is that nothing be done until you've had a chance to go through it fact by fact, not misperception by misconception, not political partisan point by political partisan point, not philosophically but realistically.

When you look at what you really want to happen with vacancy decontrol and continued high rent increases, it's to say to one business, the landlord business: "We want you to have more consumer dollars. We're not going to increase the ability of consumers to have those dollars, because we're in the business of lowering wages, freezing wages. We think the minimum wage is too high. We thought social assistance was too high; we reduced that 21.6%." So you're saying, "Give the landlords the money." Where's that money going now? Not in the air. Every dollar that we spend on rent is one dollar less that we can spend at the local restaurant, the video store, on entertainment, on clothes, on food, on cars and every other segment of the consumer spending pie, whatever we choose to spend.

What landlords are looking for — and I don't blame them; it's part of the motivation of being in the busi-

ness — is a bigger piece of the economic pie. If you give them that bigger piece, I suggest you go back to some of your small business friends in other types of business and say: "Well, I'm sorry if there aren't as many consumer dollars around for them to spend, and I'm sorry you didn't make it, but we had to look after landlords. We hadn't given them enough." We've given them 2% extra for 10 years.

In our paper, we talk about the real facts. I was on Mr Curling's committee, the Rent Review Advisory Committee. I was the bad boy of that committee, as Mr Curling will remember. I was on the committee, and we were given lots of good facts by his ministry, for example, that the operating cost of rental property in 1985-86 was 55% of rent. Only operating costs are subject to inflation, by the way. You don't have to rebuild the building, so you don't need an inflationary factor on that. With the changes over the last 10 years, the operating costs are now less than 50 cents on the dollar, so the operating profit is 50%.

Now, every tenant advocate is coming here, and they're saying, "Well, you know, we're quoting Citibank 10% rates of return average." "Average" means that some make more, some make less. There are landlords declaring losses for tax purposes. Those losses are entirely tied to the depreciation allowances and the cost of financing their ownership of the property as a long-term investment. The taxpayer does some subsidizing of those losses in order to pay off that second piece of property or third piece of property the landlord has.

But cash on cash, in terms of what it costs to run the building and what they bring in, they're doing very, very well. Some bought a little high and they're paying a price for it, and we can feel a little sorry for them. But let's not raise every rent in Ontario simply because a couple of people have run into a couple of problems here and there. The evidence is anecdotal, and the facts are that maximum rents have been allowed to go up to such a point that you can pay for everything you want. In fact, if you want to do it right and if you look at amortization schedules, you can not only pay for all that \$10 billion of expenditure in capital that you require, but you'd have about \$7 billion left for a non-profit housing program.

I don't mean to make these statements in a startling way, but I'm saying that these are the numbers we should start to look at as a government, not: "Oh, I can't make money because of rent controls. Regulating stuff just isn't a good thing to do. This is too complicated." It takes one piece of paper: "Dear tenant, I want to raise your rent in 90 days. Pay up." That's the system.

We can do better. What we're going to get from this direction is higher rents, less maintenance and less supply, because of your conversion practices, which are going to hit people like the folks from the Strathcona right in the teeth. So you're going to reduce supply. You're also going to build in some unfairnesses. There are going to be inequities in the system, different prices for different people, different treatment of different tenants, different value. Even though some tenants could pay more for rent, they can also pay more for a loaf of bread. Nobody asks you your income when you buy a



load of bread. Mr Greenberg from Minto can pay more for bread than I can. Does that make it fair that he's charged more?

We have to look at the value of rental housing. Mr Baird pointed out an almost 300% increase in his rent, I believe, over 15 years. That's common. When I moved to Ottawa in 1974 and moved into a Minto building, a three-bedroom unit was \$210. That unit is now around \$740 or \$750. Minto hasn't had to rebuild it. They've had to operate it. That's been taken into account in the inflationary increases.

The facts don't bear out the direction you're going in. I ask you to review that. I talked to Mr Hardeman earlier. I gave him a football analogy: Drop back 10 yards and punt. Take your time, do it right, and that kind of governing will deserve the respect of landlords and tenants and everyone else. I hope you'll do that.

I hope there's time for questions. We are prepared to stay as long as you wish.

**The Chair:** You've run the clock down to about two minutes, which isn't an effective time to divide up for questions. So if you want to use your two minutes for some further comments, you're more than welcome to do that.

**Mr McIntyre:** My further comments are this: Tenants look to their government to provide a level playing field. Not only will this tilt the field if we go this direction, but other measures taken in conjunction, including the cuts to

legal aid, the cuts to income support, the cuts to all sorts of things, will make things worse.

If I can take one more pitch at the government, this is not a Common Sense Revolution item. We've got lots of campaign literature of Tories saying they won't bring in anything till they can get a system that's proven to be better. I'm saying to you that you don't have the proof. Keep that first promise: Don't bring it in unless you can prove it's better.

We'd be willing to look at that with an open mind. We'll sit down with the minister. We were hopeful that he might be here today. I've invited him to come up and see us some time. We hope he'll do that some time. We'll continue to work with the opposition parties so that they can press you on the very points that you need to be pressed on so they can fight for fairness for tenants as well.

Nothing that we say is meant to drive landlords out of business. I did take some exception to Mr Leach's comments on opening day, and they're referred to in our brief here as well.

I probably blew the two minutes there. I can talk 20 minutes on about 15 different topics in here if you like, and many people here know that as a fact.

**The Chair:** Okay, thank you, Mr McIntyre, and thank you all for your interest in our process.

The committee now stands adjourned until noon tomorrow in Peterborough.

*The committee adjourned at 2002.*



## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
\*Mr Bernard Grandmaître (Ottawa East / -Est L)  
\*Mr Ernie Hardeman (Oxford PC)  
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\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance /présents*

### **Substitutions present /Membres remplaçants présents:**

Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello  
Mr John L. Parker (York East / -Est PC) for Mr Young  
Mr Peter L. Preston (Brant-Haldimand PC) for Mrs Ross  
Mr Toni Skarica (Wentworth North / -Nord PC) for Mr Tascona  
Mr Bruce Smith (Middlesex PC) for Mr Flaherty  
Mrs Margaret Marland (Mississauga South / -Sud PC) for Mr Stewart  
Mr Howard Hampton (Rainy River ND) for Mr Wood

### **Also taking part /Autres participants et participantes:**

Mr Richard Patten (Ottawa Centre L)

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell, research officer, Legislative Research Service



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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 29 August 1996

# Journal des débats (Hansard)

Jeudi 29 août 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Thursday 29 August 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Jeudi 29 août 1996

*The committee met at 1200 in the Ramada Inn, Peterborough.*

RENT CONTROL

**The Chair (Mr Jack Carroll):** Good afternoon. As is our custom, we try to start on time and stay on time. It's great to be in Peterborough, the city of my birth. I'm delighted to be back here again. This morning I took Mr Marchese out for a run through the wonderful streets of Peterborough, over the Hunter Street bridge and over by the lift lock and he survived that, so he's back with us.

It's great to be here in Gary Stewart's riding. We're here to listen to input from the people of Peterborough and area about the proposed changes to the rent control legislation. We've been around the province this week and have had some very interesting input. I'm sure that will continue here in Peterborough.

I ask that people in the audience respect the position that the people who have been given official status to present have the right to be heard, and those people sitting on the panel have the right to question them, without any unnecessary interruptions. I ask the audience to participate in that with us.

**Mr Peter L. Preston (Brant-Haldimand):** Just one short question: You and Mr Marchese running down the street were not occasion to be arrested or at least stopped?

**The Chair:** No, we weren't. Nobody knew who we were. We were a bit of the Odd Couple, but other than that we were not arrested.

AON INC

**The Chair:** Our first presenters this morning represent AON Inc, Ross Smith, president; Hugh Smith, senior vice-president; and Braydon Smith, vice-president of operations. Good morning, gentlemen. Welcome. You have 20 minutes. Should you allow time for questions, we rotate questions in order, dividing up the time evenly, and we would start this morning with Mr Marchese. The floor is yours.

**Mr Ross Smith:** Mr Chairman, ladies and gentlemen, members of the committee, my name is Ross Smith and I represent AON Inc. As you have stated, I am the president.

AON owns and manages approximately 1,000 rental units in Peterborough and surrounding area and currently employs 105 people on their direct payroll here in Peterborough. We appreciate that the government has recognized that the rent control system is in need of major overhaul. This is one step towards fixing a problem

for us. Let us review the tenant protection legislation as proposed by you.

The legislation that you presented and sent out and circulated is designed for Toronto as was the legislation in 1975. The discussion paper is premised on all the problems, requirements and happenings in Metropolitan Toronto. One of the things that happens to us poor people in the outlying regions is that we never get heard even though we represent, in the outlying regions in the Ontario area, a greater number than the people in the city of Toronto.

Who are the active proponents in this proposed tenant protection legislation? I've included with my submission to you circulations, sent out and paid for by the council of the city of Toronto, that went around Toronto with the names of all the councillors. They were having a meeting on August 19 and they were chartering buses at the expense of the citizens of Toronto. In this circulation that was sent out they referred to the housing crisis as worsening.

This is nothing more than the city of Toronto using scare tactics, using their power and influence and the money of the taxpayers of Toronto to influence the outlying areas and influence this committee. If the city of Toronto wants rent controls, I think this committee should turn all that legislation over to Toronto and let them run their own rent controls the way they want to do it, because what they have outlined is scare tactics that never, ever worked before.

The second thing we have is — who's the biggest organizer of the city of Peterborough? This is the Coalition to Save Tenants Rights. Here's what they circulated in the city of Peterborough. Right on the bottom it says, "Supported by Toronto city council." What we're really hearing today is the city of Toronto coming into Peterborough and influencing this board and this committee. We think this is wrong, because these people and the city council of Toronto don't even understand how things work in the outlying regions. That's our opinion and it's a point we want to really make to you today.

Controls are not regionally the same. The Ontario government has to understand that vacancy rates, employment statistics, land market values and housing affordability are regional factors. These are the most important things you have to understand and the committee has to understand: We're not the city of Toronto. We're a regional area and we have different problems than the city of Toronto.

Uniform controls for all of Ontario remain inherently unworkable and unfair to the people of Peterborough and the regional people of Ontario. Why should taxpayers of the city of Peterborough and areas outside Metropolitan



Toronto support a legislation that's designed solely for Toronto? We don't believe that you can have any form of legislation that represents and handles and meets the needs of the regional area of Ontario and meets Toronto's needs.

Let's go through, and I'll outline to you why we feel that you have to look at the regional factors: the market, vacancies, the housing and affordability.

Housing costs control rents in the regional area. It is very important that you understand what our housing costs are. In the city of Peterborough a three-bedroom house in the older district can be purchased for less than \$70,000, and a condominium in Omemee today can be purchased for \$34,900. Attached to my submission to you is the real estate for the Peterborough Examiner, August 24, 1996, which outlines two houses in that circular. Many more can be found and many more are readily available.

What this does is control your rents, because the marketplace is controlling the housing costs and the housing costs indirectly are going to control your rents, because if you get your rents up too high, people are just going to move into these houses and move out. They have alternative housing here. This is a regional factor in a regional market situation.

Let's turn and look at vacancy rates in the areas. I refer you to what I've submitted to you: vacancy rates for the Peterborough area based on the October 1995 survey. We believe that these rates have gone up. We estimate that the current vacancy rate in the city of Peterborough is 5.5%. Let me just review these with you: Cobourg is 3.3%; Lindsay is 4%; Port Hope is 10.9%; Peterborough is 3.4%; Belleville is 4.7%; Trenton is 9.1%; and the city of Ottawa is 3.8%. Those areas and those vacancies, all those cities are in an area where nothing can go up because of your vacancies, and these vacancies are going to control your marketplace. We want to be self-controlled areas.

What cities have less than 1% vacancy? The city of Toronto, the only city we have in all of Ontario that is under 1%, and don't forget that CMHC has trouble, when they're doing their vacancy counts, in counting the condominiums in the city of Toronto. Many of the condominiums available for rent in the city of Toronto do not get counted.

If you look at the vacancy rate of six or fewer units in our area, they can run as high as 25%, so buildings with six units and less would have greater vacancies. CMHC doesn't include them in its tallies because they're harder to inventory and at the same time they would distort the true numbers, possibly, in the larger buildings.

The vacancies that I've outlined to you here are regional factors and regional things based on what the marketplace has, and this will control your rents.

In the paper that you circulated for comments you talked about protection from unfair rent increases. Vacancies, the housing affordability we've outlined to you, will control this. You're in a free market situation whereby the rents will be controlled.

In the outlying areas, outside the city of Toronto, we would suggest that consideration be given to putting in a rental ombudsman. The idea here would be that if an

unusual situation occurs, you would have to go before — in other words, if you have an excessive rent increase, there's a mechanism whereby the tenant can go and have his rent reviewed to see whether it was unjustly made. That's what we should be installing in the outlying areas to handle any exorbitant rent changes.

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The government has to fully understand that the apartment buildings in the outlying regions of Ontario are 20 to 35 years old and require excessive dollars for maintenance. Government policies have to be geared towards maintaining this inventory of rental units at a very acceptable level. I think that may be a problem in Toronto too, but we're in the outlying regions and we think that we have a problem. We have to maintain our buildings. It's going to be more difficult, possibly, than in the Metropolitan Toronto area.

The right of a tenant to make a rent reduction: This was one of the features in the paper that you circulated. To us, this is an absurd policy which can be abused by the resident. One of the goals of the tenant protection system is to reduce red tape, but here you are reinstating red tape. I'll give you a case in point.

A person moved into an apartment unit. The previous owner, who actually occupied that unit, had installed a central vacuum system. The central vacuum system was not working and had never worked. It wasn't operational when it was rented. It wasn't a complete system. After a year of applications and hearings, a rent reduction came through at \$1.32 per month. To me, this is an abuse of a system and should not be included in your paper. Tenant reductions and disputes should be handled by a rental Ombudsman and the existing legislation should not be preserved.

Illegal charges: These as well could be handled by your rental ombudsman and an application should never come forward unless it has good justification. This is your mechanism for solving problems and solving disputes, whereby you sit down and you go through it. This person has to be knowledgeable in the business and in the area and non-political.

Vacated units: The landlord will negotiate the incoming tenant's rent. This is an absurd concept, based on the vacancies that were outlined to you. This only applies to the city of Toronto, which has a vacancy rate of less than 1%; it is not applicable to the regional areas of Ontario.

The next point: The rent guidelines will not apply to new construction. This is the same legislation that was proposed in the original rent review legislation, and as soon as a number of buildings were built they came under rent control. I doubt that any investor would ever take the chance a second time, to build a building and take the chance that it's not going to come under rent control, particularly if the controls are still in place.

The other item you had was negotiating above-guide-line increases; a resident volunteers to pay for capital improvements or a new service that he negotiates with the owner. This really is a misuse of a social program that you're trying to implement. What we have here is a situation where you could, if you had an unethical landlord, have him intimidate a tenant into the increase.



Then he applies later on and says he was intimidated in this regard.

If you're going to do things like this, you should just lift the rent review program and let the market rents follow through and/or you refer that to your rental ombudsman, who handles this type of situation, and make sure it's done fairly and equitably, with a third party present. But you can't arbitrarily negotiate a change in rent, because that's not fair maybe to the new tenant coming in who doesn't want these changes.

The rent registry was another item that you had indicated you were going to remove. You went to a great deal of expense in putting in the rent registry, which can easily be updated. It may be difficult in Toronto, but in the outlying areas, it is not difficult to update or change this registry. We have had no problem with the registry other than the fact that sometimes internally they didn't have the numbers correct. To replace the registry, we think there has to be a mechanism whereby you go to a person and discuss your rent, and this is maybe your rental Ombudsman who would be there, and he would fill in the place of the rent registry.

The other item that we talk about in the paper is the maximum rents. Your legal maximum rents are rents that building owners can increase to, and if he is not presently charging that amount, in a recovering economy and with lower vacancy rates there's a possibility that he could use these increases for the maintenance of the buildings in the future.

At present the average rents in the city of Peterborough are \$585.43 for a one-bedroom and \$687.40 for a two-bedroom. In the outlying areas in our region here today, we have buildings that currently are renting for \$597 a month for a one-bedroom and \$657 for a two-bedroom. The legal maximums are \$791 for a one-bedroom and \$864 for a two-bedroom. We feel that these legal maximums that are there, if the rent review legislation stays, we have to have it because at present we haven't been able to recover it because of the unemployment and the economic climate in our area. At present you're looking at reducing it, eliminating it when a unit comes vacant, and then all of a sudden our rents would actually go down. In a recovering economy, we could not recover these funds in the future.

You also refer to maintenance by increased rents. It seems to be the repeated direction of this paper that if a unit becomes vacant, you're able to put your rents up to the market rents. This is not the case here in Peterborough, as I've just outlined to you. Basically what you have here is that in the city of Toronto you can possibly do that, but in the outlying regions you can't do that. This is where we tell you that the outlying areas in the regions of Ontario are in a recession, many of them still, and they have high unemployment.

The other item we think you should be looking at in your review of your paper is ~~your~~ security deposit. A security deposit protects the tenant in the unit who's a good tenant, because what it does is it stops the abuse of bad tenants who come in, leave the place in shambles, destroy it; it makes the landlord go to a great deal of expense and cost going forward through the courts to try to recover his money. Here he can turn to the security

deposit and take it. At the same time, you would use your rental ombudsman to review this, and if he felt there was abuse of your security deposit, then he would refund it. But it's very easy to take a rental unit, take your pictures and present it to your man; in two seconds, he can figure out whether this is an abuse of the system or not.

The other one — you've heard that we now have to take pets. We think you should have pet deposits. As you're aware, residents are permitted to have pets. Some of our largest damage to our units is a direct result of pets, as well as fleas getting into the neighbouring units. This deposit should be in the neighbourhood of \$500 and encourages the resident to be responsible for his or her pet. We think this is a good thing and it helps other tenants who are good tenants, who are responsible, who look after their pets. We think it should be included in any review that's taking place.

**The Chair:** Just to let you know, Mr Smith, you're down to your last two minutes.

**Mr Ross Smith:** Okay. The other item we want to discuss is in situ rent subsidies. Land owners who maintain their properties could be approved by the Ministry of Municipal Affairs and Housing to take in situ rent supplement grants from the government, "in situ" meaning a person who is living in the unit currently.

In summation, I think this committee has to look at the vacancy rates, the employment rates and the statistics in the outlying areas.

Second, if the city of Toronto needs rent controls, we should turn the rent controls over to the municipality of the city of Toronto and save the taxpayers of Ontario \$400 million to \$500 million.

Third, the removal of rent controls will assist the people in need directly, and this can be done through the in situ rent supplement that I outlined to you.

Finally, the security deposits help the person who is a good tenant and a good resident in the building by keeping the costs down generally. Thank you.

**The Chair:** Thank you very much, gentlemen. We do appreciate your attendance with us this morning and your input into our discussion process.

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#### BARRIE ACTION COMMITTEE FOR WOMEN

**The Chair:** Our next presenter is Sherry Tingley from the Barrie Action Committee for Women. Good afternoon and welcome to our committee. The floor is yours.

**Ms Monica Petzoldt:** Good afternoon. I would like to thank you all for allowing us the chance to address this committee. I'd like to start, first of all, by saying who we are.

The Barrie Action Committee for Women was founded in approximately 1989 and is dedicated to social, political and economic equality for women. Over half of our members are women living in poverty, so often we are looking through the lenses of poverty. Over the years in our community in Barrie, we have worked to ensure that those most affected by issues and decisions being made have meaningful input into those decisions.

First off, I'd like to introduce myself. My name is Monica Petzoldt and I'm a long-time member of the



action committee. I've been a tenant in private and non-profit housing for over 20 years. I currently sit as one of the tenants on the board of directors of the Barrie Municipal Non-Profit Housing and we provide housing to more than 2,500 people in the city of Barrie. I'm also a founding member of the Municipal Tenants Network, a network that represents tenants who are living in municipal non-profit housing. I currently am working coordinating an advocacy project for marginalized women. I'm also a single parent of three children.

With me is Sherry Tingley, a founding member of the Barrie Action Committee for Women. She has worked as a community volunteer for many years, sitting on such groups as the family violence committee of the Simcoe County Board of Education, Best Start Barrie and the maternal newborn committee of the Royal Victoria Hospital in Barrie. She works as a coordinator of a small non-profit in Barrie. She has lived in both private and non-profit housing for over 15 years. Sherry was appointed a representative of the United Tenants of Ontario to the Ministry of Housing advisory committee. She's also a single parent of one child.

Both of us were tenant members of the Ministry of Housing's working group on tenant participation in non-profit programs. We worked on that from September to January 1993.

For single parents living on family benefits since the cuts in October 1995, the shelter allowance has dropped dramatically, for example, for a single parent of one child, from \$652 to \$511, and in Barrie the CMHC October 1995 average for a two-bedroom apartment was \$712. This shortfall of \$201 must be taken from a basic needs allowance of \$446, leaving only \$245 for all basic needs including food. With 40% of families before the cuts paying over the old shelter allowance, we know now that many people have had to choose between feeding their children or keeping a roof over their heads. In our area, for at least 10 families, the question of giving up their children for adoption has been a serious consideration and, in two cases, a reality.

But not only for sole-support mothers receiving family benefits does shelter cause a concern. In our experience, shelter is the number one priority and a constant struggle for all single parents. Women who want a good neighbourhood, clean, safe and appropriate shelter for their children are often forced to pay well over 50% of their limited income to provide it.

I'm going to pass it over to Sherry now.

**Ms Sherry Tingley:** The Lampert report, released in the fall of 1995, estimates that 25% of tenants move every year and that over a five-year period 70% of tenants move at least once. According to the 1991 census, there were 8,575 tenant households in Simcoe county, and the percentage of people, not just tenants, who had moved in the last year in the city of Barrie was 27%.

With these figures in mind, it is easy to see that under vacancy decontrol, as proposed in this consultation paper, five years from now we'll see a substantial loss of affordable housing as rents will move upwards each time a unit is vacated. It is our hope that this committee will ponder what this will mean to the children of Ontario.

Was the intent of the voters of Ontario on June 8, 1995, to create a system of vacancy decontrol that would mean that many of our children — and really our children are our future — will go without good food, would be excluded from things such as baseball, hockey, school trips; that they would grow up without hope really; that they would die in fires — we know that this is a reality — in substandard housing so that landlords could make as much profit as the market would bear? I don't think so, and we don't think so.

Since the welfare cuts, we have talked to women who have moved in with families after losing their housing. They have had to move into trailer parks, cottages, and basements; they have worried about their children's diets of pasta, tuna — and that was recommended to them — bread, with no fresh fruit or vegetables. Even if they managed to stay in their current unit, under your proposal landlords would be entitled to an automatic increase of the guideline amount up to 4% for capital repairs and an additional unlimited amount for property taxes and utilities. In the past few years, the guideline has been around 3%. If 4% is added for capital repairs — and of course this might be the marble counter top; I guess there's a bit of negotiation, but some of us haven't negotiated very successfully with our landlords — tenants may see increases in the 7% to 10% range. This will force many single parents and their children to move, thus starting the ball rolling on vacancy decontrol. Where will they go? Where will our children live?

We really wanted to know if this government has copies of any studies that show the impact on tenants of the proposed changes to rent control. Do you have any studies that can show us what the new rents will be on existing units and the supposed new units? We want to know how many rental units will be lost to the proposed scrapping of the Rental Housing Protection Act.

I don't need to tell members of this committee about some of the places that our children live in now. I'm sure you've all canvassed in your communities and communities outside of Metropolitan Toronto, and you've talked to people who are struggling and they're really hoping for a better life for themselves and their children, people who are scared to complain, who are paying too much rent. The only thing I'm not sure about is whether you've actually heard them.

If this government is serious about protecting tenants and creating better communities for people who live in Ontario, they would consider doing the following:

You would send a notice to tenants from the rent registry about what their legal rent is and what to do about the difference. I'm sure you've heard about people paying above the legal rent.

You would fund tenant organizations to help tenants understand their responsibilities and their rights and to fight the bad landlords, because I'm sure you've heard about bad landlords. I know that the tenant advocacy funding ran out in July and I find it ironic that there isn't any tenant advocacy funding just when we start on this process of these hearings.

Immediately fund an independent study of the situation of this province's children in terms of their accommodation.



Find out about the trailer parks and the slums in our towns and cities and then do something about it.

Reinstate the social housing program. This will create jobs and ensure that our children grow up with some chance of being part of society and with some hopes for the future.

Immediately return the shelter allowance portion of the welfare cheques to the pre-October 1995 rates in recognition of the highest shelter costs in Canada. Recipients are only entitled to the shelter costs they pay out and up to the maximum allowed.

We concur with Dr Hulchanski's recommendation that this committee recommend that these proposals be scrapped and that new proposals for rental housing supply be brought forward based on a recognition of the problem of the lack of effective market demand among Ontario's tenant population.

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We would also add that those most affected by these proposals need to have an opportunity to have meaningful input into any changes. To come today to speak to this committee we both have had to miss a day of work, we've had to pay for our gas and our lunch, although we got lost and haven't had lunch, and this money was taken from our children. Like almost all single mothers, any extra money we have goes to ensuring that they have the things they need to participate as members of their community. It's important to us.

In conclusion, we'd like to point out that it is strange that this government scrapped a successful program of social housing, co-ops and non-profits, a program that was creating jobs and creating communities — we live in them and have lived in them — for the most vulnerable people in Ontario, to give a tax cut to I'm not sure who. I haven't seen it. Now they really are asking tenants to pay for a program, because I imagine tenants will be paying for this private market program, that is supposed to create new units, but with no proof that it will do it. In fact, virtually all the evidence I've seen, and I've watched some of the hearings, that was presented to this committee shows just the opposite: that ending the current rent control program will not lead to the construction of affordable housing stock. We don't agree that tenants should pay for this and we think the odds of tenants coming out ahead would probably be better at Rama casino.

As tenants and as single mothers, we think that landlords, and I guess this government, would like us to believe in a field of dreams: If you remove rent controls, they'll build affordable housing for tenants. Thank you.

**The Chair:** We've got about two minutes per caucus left for questions, beginning with Mr Marchese.

**Mr Rosario Marchese (Fort York):** Thank you both for your presentation. You read the report obviously.

**Ms Tingley:** Yes.

**Mr Marchese:** This is called the tenant protection legislation proposal. Is there anything in this proposal that protects tenants, in your view?

**Ms Tingley:** No. I can't see anything that protects tenants and protects the most vulnerable tenants.

**Mr Marchese:** You've heard Mr Smith, the previous speaker?

**Ms Tingley:** Yes.

**Mr Marchese:** And we've heard from many landlords who simply say that we should let the market take care of things, that the government should just get out of the way, abandon rent controls. Mr Smith looks at the vacancy rates and says: "That's your protection. We have high vacancy rates." It's 3.5%, but he estimates it's 5.5%. He gives a list of other places where the vacancy rate is high, so he says, "That's really your protection." As a tenant, I think you have a lot of experience. They claim that we don't have any experience; the builders and landlords have it. Do you agree with his propositions?

**Ms Tingley:** No, I don't agree. In Barrie and in the province, it's a very tight market. I don't see why you would allow the necessities of life just to be thrown — is that going to happen with open-heart surgery soon too? I don't know where we're going. I am a landlord as well. I do administer 30 units in the area.

**Mr Marchese:** One quick question: This man says the problem's in Toronto, that it's really a Toronto problem.

**Ms Tingley:** No.

**Mr Marchese:** Do you have a Peterborough problem as a tenant? He says the problem of this whole thing around tenant protection and rent control is simply a Toronto problem. Is it a Toronto problem or do you have problems in Peterborough?

**Ms Tingley:** I'm from Barrie. Yes, we have problems in Barrie. We've talked to tenants in Thunder Bay. When there was a United Tenants of Ontario, we talked to tenants across the province, and they all needed protection.

**Mr John L. Parker (York East):** Thank you very much for appearing before us and for your presentation. I heard your words this morning. I appreciate that you are facing the consultation paper with some degree of cynicism. I think that's fair that you do that.

Frankly, I'm somewhat cynical about the status quo and I'll tell you why. I represent the riding of York East. That's a Toronto riding. We've heard already this morning about the problems in Toronto. I have those problems in my riding. We have a lot of tenants in my riding and we have a very low vacancy rate in my riding. Frankly, I don't know the situation in Barrie, but we've heard the situation in Toronto this morning and it's quite startling.

We also have severe problems with maintenance with some of our buildings. I routinely receive delegations from tenants in my constituency office who tell me of the problems they have in their buildings. The problems come in various sorts and various kinds, but one fundamental problem they've got at the bottom of it all is they feel trapped. They feel they have no place to go because there's no alternative for them, no choice for them, no vacancies for them to move into. They're held captive in their existing apartments.

I requested to be part of this committee so that I could tour the province and listen to people and put that forward as part of my search for solutions to the problem. I'm asking you this morning, what solutions can you give us to the problems that we've identified and the problems that we are seeing with the status quo, with the current situation?



**Ms Tingley:** You talked about maintenance and how they felt trapped; they wanted to move because of maintenance. It sounds like you have a number of bad landlords. I don't think you'd typify that all the landlords have horrific maintenance problems, but maybe that's what you are saying.

But I think you've probably seen successful tenant associations and organizations work very hard and push. There are rent strikes. There are all kinds of processes to push landlords to make maintenance change in the rent control. Currently when a work order goes out, the landlord can't raise the rent. They often want to stay. Single mothers want to stay. They want their kids to go to the same school; that's the first thing we hear. But in terms of feeling trapped, there are situations where people want to move, but I definitely —

**The Chair:** Mr Curling is getting upset because you're cutting into his time over here.

**Mr Alvin Curling (Scarborough North):** I am not at all.

**Ms Tingley:** But in the proposal, if you're concerned with people feeling trapped and having no choice, I don't see how you're addressing that, because it very much concerns us that people will be at the mercy of landlords in terms of maintenance. There will be no reason to maintain the unit. The guideline can increase.

**The Chair:** We do have to go on. Unfortunately, we have to cut the time rather tight.

**Mr Curling:** I appreciate the indulgence of the Chairman, who has listened to the very good response to the honourable member. I think your presentation was right on in many of the things you've said, but the government would call you a special-interest group and it will not be dictated to by a special-interest group.

The previous presenter stated that the vacancy rate is about 5.5% in Peterborough. Do you have any people who need affordable housing, and is that a long list? Even with those 10%, would you still have people who are not able to access rental units with their income?

**Ms Tingley:** Very much so. I meant to call to find out exactly what the list was; I wasn't able to. But as somebody who administers a small social housing project, I get to talk to the people.

I had a call last week from a single mother who had lost her job and had to move. Her first concern was to keep her children in the same school and maintain that stability. I imagine she was a transfer, probably the hospital or OPSEU. She had quite a well-paying job and her UI was going to support her family, but she would have to move and she needed affordable housing. I wasn't able to give her much hope because the lists are so long. I did point out that the Salvation Army and St Vincent de Paul were something to keep in mind. She asked me why, and I really didn't have the heart to tell her that when she lost her current housing, they would help her live in a hotel room with her three children.

**The Chair:** Thank you very much. We do appreciate your input here this afternoon.

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## PETERBOROUGH SOCIAL PLANNING COUNCIL

**The Chair:** Our next presenter is the Peterborough Social Planning Council, Jacqueline Powell and Jan Bowen. Welcome to our committee. The floor is yours.

**Ms Jacqueline Powell:** Good afternoon, honourable Chair and members of the legislative committee, and thank you very much for your time today. My name is Jacqueline Powell and I am speaking on behalf of the Peterborough Social Planning Council. With me is Jan Bowen. Jan is a member of the board of directors of the social planning council.

The mission of the social planning council is to work to build a strong and healthy community through research, community development and public education. As such, we're interested in the impact on the Peterborough community of the proposed changes to the legislation which governs tenant protection in Ontario.

In preparing this presentation, we have taken a community consultation approach. By that I mean that we've consulted with a range of individuals whom we consider knowledgeable and expert in the housing area. That list includes planners, housing advocates, tenants, social service delivery agents, providers of social housing, providers of mental health services and landlords.

We would like to make three related points in the presentation today. The first is to comment positively on some of the goals of the proposals; second, we will address the issue of affordability versus availability; and finally, we will speak to the anticipated outcome of the proposed changes on vulnerable groups in our community.

Our support for the proposals is for the spirit of the changes, which speak to protecting tenants from unfair rent increases, evictions and harassment, and providing strong security of tenure, creating a better climate for investment, maintenance and new construction and therefore creating jobs and improving enforcement of property maintenance standards. These are extremely worthwhile goals and ones which would most likely be embraced by everyone concerned with building a healthy community. The difficulty arises with some of the aspects which pertain to achieving these goals, where in fact they will counter the intended positive impact on the community. Our recommendation is that the proposals for changing the legislation be reviewed in the light of the stated goals, as some of the proposals seem contrary to the achievement of their own goals.

In the Peterborough community the most important factor which prevents the provision of "A decent home for everyone" — that's the motto of our housing advisory committee — is that of affordability. An adequate supply of rental accommodation, as evidenced by relatively high vacancy rates, currently at 3.4% in Peterborough, does nothing to assist the people who simply do not have enough money to afford to rent what is available.

One might assume that the market would respond and that rents would be lowered to levels which would allow these people to be housed. Experience has shown that even in times of excess supply of rental accommodation,



the rental rates do not seem to decline. This observation was made by a provider of social services following the 21.6% cut in social assistance rates. For the most part, landlords were unable to lower rents to allow tenants to stay in their current housing, and rents throughout the community remained high.

In Peterborough it is also extremely unlikely that the proposed changes will result in the creation of affordable accommodation. Additional incentives will be needed to ensure that affordable rental accommodation is made available in our community.

One thing that is evident is that low-income people in Peterborough are spending a disproportionate share of their incomes on housing. At times that is in excess of 70%. Social planning council research indicates that fixed costs such as rent and utilities will be paid at the expense of items such as food, clothing and other essentials. In other words, people and, as we heard in the previous presentation, children will be going hungry, resorting to emergency food sources and going without adequate clothing in order to meet their housing costs. I hope you'll agree this is not something that should happen in a healthy community.

Supply of rental accommodation is not the most important housing issue in a community such as ours; it is affordability. In a 1994 housing study completed by the social planning council for the Peterborough housing advisory committee, it was determined that only 3.7% of our total housing stock in the Peterborough area is made up of social housing. That includes public housing, rent supplement units, non-profit housing and rural and native housing, and 85% of that is geared to income. So even with that small amount, only a portion of it is rent geared to income. Yet we have a community which experiences poverty rates of 32% for individuals and 10% for families as of the last census.

Combine that information with the fact that current rents are 10% to 76% above current shelter allowance levels for people on social assistance, and you begin to get a picture of a quiet but serious crisis in our community. With only 3.7% of our housing stock as social housing, the vast majority of low-income people in Peterborough are subject to market rents, and market rents have been found not to decrease even in times of excess supply, probably due to fixed costs which landlords face.

Additional means of providing affordable rental accommodation are needed in Peterborough, and the proposed changes to tenant legislation will not help in this regard.

Our recommendation is that the government investigate ways of encouraging the provision of affordable rental accommodation by private landlords, not-for-profit corporations, community groups and other interested parties. For example, it may be feasible to establish revolving loan funds for the construction of new units or renovation of existing units.

The final and related area on which we would like to comment is the impact of the proposed changes on some of the most vulnerable people in our community. For example, I'm referring to people with physical disabilities, people with mental health problems and frail elderly persons. These individuals face significant barriers to

acquiring adequate housing in addition to the affordability barrier which all low-income people share. Under the proposed changes, these individuals will feel trapped in their present accommodation if the proposal to decontrol rent when a tenant leaves is implemented. They will be unable to leave their current housing even if it no longer meets their needs.

An added blow to the most vulnerable in our community is the recently announced closure of the Housing Resource Centre at Volunteers and Information Peterborough by the Ministry of Municipal Affairs and Housing. This centre serves in excess of 4,000 tenants and landlords annually, and in many cases their clients are those having the most difficulty finding and keeping accommodation. Often the clients are single parents with children to raise. If employed, their employment incomes are inadequate to meet their needs and many have had to resort to social assistance, with shelter allowances well below the cost of average rents in Peterborough.

Under the proposed changes, not only will these individuals face the possibility of escalating rents, they will no longer have the services of the Housing Resource Centre to help them in their quest for affordable and decent housing.

We would like to take this opportunity to deliver a letter from the president of the social planning council to Mr Stewart, our MPP. This letter requests that Mr Stewart seek the reinstatement of the funding of the Housing Resource Centre, as this centre fulfils an extremely valuable function in our community in a way which is both cost-effective and efficient. In fact, the Housing Resource Centre is in the business of saving the government money, for example, through the prevention of repeat hospitalizations for the mentally ill. As such, the Housing Resource Centre is a good investment for government and one which gives good return for the money.

We recommend that the government re-examine the proposal to decontrol rents when a tenant vacates a unit in light of the negative impact which this will have on some of the most vulnerable people in our community and that the government reinstate funding for the Housing Resource Centre in light of the economic and social cost of closing that centre.

In conclusion, while we commend the spirit and intent of the proposed changes, we are concerned that the proposals will not lead to the development of a healthy and vibrant community in which there is, as the housing advisory committee states, a decent home for everyone and that, in combination with the closure of the Housing Resource Centre, we will see many individuals in our community in an extreme housing crisis, with nowhere to turn for support and assistance.

Now I would like to turn the last minute of my presentation over to Pat Jackson, a speaker from the audience who is here as a friend of the Housing Resource Centre.

1250

*Interjection.*

**Mr Curling:** Do you want to come to the mike.

**Ms Pat Jackson:** I would like to make you aware that there is a public demonstration going on outside in support of the Housing Resource Centre, which is closing



tomorrow due to the discontinuing of provincial funding. The people standing with me would like to say that they are here to support tenants and also the Housing Resource Centre in Peterborough.

Mr Stewart, we would like to give you these petitions that have been signed in the last three days. The comments on the bottom speak for themselves. Please listen.

Ladies and gentlemen, the Raging Grannies.

*Musical presentation.*

**Ms Powell:** Are there questions?

**The Chair:** Are you through?

**Mr Marchese:** They're ready for questions.

**Ms Powell:** Yes, thank you.

**The Chair:** We've got about a minute and a half per caucus for questions, beginning with Mr Preston.

**Mr Preston:** We'll reserve our time.

**Mr R. Gary Stewart (Peterborough):** Thank you very much for your presentation. I accept your petitions and your letter. I should inform you that as of probably now, prior to your demonstration and your presentation, we are in the process of setting up a meeting with Marilyn Huels from the Housing Resource Centre.

On the tour that we've had this week we've heard a number of concerns from people that their housing resource centres have closed as well. In Thunder Bay the first eight people who made presentations were groups that were doing exactly the same thing as what the housing resource centres were doing. Please don't get the impression I'm taking anything away from them, but I think what we were looking at was that we had organizations doing these things that we in turn were spending a lot of money for. That's the number one thing.

The other thing was, do you not feel that these days there should be some responsibility on behalf of the people themselves? I guess that has a concern for me, that if we constantly keep doing things like this — and certainly we heard a previous group that has a lot of staff doing a lot of consultation, or will, whatever, to assist the people to find housing.

The final thing is, in Thunder Bay, in Sault Ste Marie and here in Peterborough, we are now finding as the vacancy rate goes up, which it has in Thunder Bay and Sault Ste Marie, the rents are coming down. I look at Peterborough and the vacancy rate is lower than it was in 1993, but the cost of housing or the cost of units has decreased. Maybe just a comment, Ms Powell, if you would.

**Ms Powell:** There are a number of points there. I'll start with the issue of duplication of service. When you meet with Marilyn Huels, she can give you more details, but I am aware that a substantial amount of money was removed from this community and the service was centralized at the Housing Resource Centre, so in fact there's no duplication going on. I have been in the community long enough to have experienced what it was like before we had a Housing Resource Centre and I'm quite frankly very worried about it. As an agency person, where am I going to send people who don't have the help? They didn't have it six years ago; they won't have it now.

**The Chair:** Unfortunately, unless Mr Curling is ready to give up his time, I'm going to have to cut you off.

**Mr Curling:** Let me commend you for your presentation. I think it's right on. Immediately, the government sees you as a duplication and says you're irrelevant because you're a special-interest group and says that you should have some responsibility. The fact is, you have had responsibility representing the people who are in need.

One of the things that jumped out to me, if you could just quickly comment on it for me, is that 3.7% of the total housing stock in Peterborough is made available to social housing, including — and then you list them. You're saying that regardless of what the vacancy rate is, only 3.7% of the stock is available to those more affordable — tell me, what kind of impact is this having right now with the cutback of 21.6% for the most vulnerable people, social recipients who have gotten that from the government?

**Ms Powell:** People are having to take extraordinary means. I know people who have had to leave Peterborough and move to rural communities, where they hoped they would get less expensive rents, people who are sharing accommodation, people who are crowded in their accommodation. There are a number of moves being taken by people in an effort to help themselves, and I think there is a tremendous spirit of people wanting to do for themselves. However, that's just not always possible, given, as you said, that only 3.7% of the housing is social housing.

**Mr Marchese:** Thank you for demystifying some of the problems of this paper. We're talking about the goals of the proposal, but within the body of this paper it does not meet them. You're not the only one, but many are exposing that particular issue, and I thank you for that.

I also want to thank you for bringing to the attention the fact that the Housing Resource Centre at Volunteers has been closed down. United Tenants of Ontario has also been defunded, presumably because of duplication. Yet what we see is an attack on tenants at a time when we need people like those who work at the resource centre and United Tenants. They are defunding them.

I want to ask you a question too. There's not much time. Mr Stewart says people should do more for themselves. That's really at the heart of Conservative politics, so if people are not doing too well, it seems to be that it's their fault and that somehow they should pull themselves up and deal with the problems. What is your response to that?

**Ms Powell:** I think there is a tendency somehow to blame people for being in the circumstance, and if you look at the reality of the unemployment rates, the difficulty people have getting jobs, we have to broaden our view and stop blaming people who are in this situation and look at services like the Housing Resource Centre as a way for people to help themselves. They have to literally go out and seek those services. Nothing's done for them. It just provides them a resource to assist them.

Furthermore, the second part of that is there are vulnerable people in our community who will never be able to do for themselves 100%, and as a caring community, we need to look after their needs as well.

**The Chair:** Thank you very much, ladies. We appreciate your input this afternoon.



1300

## OLIVE LACEY

**The Chair:** Our next presenter is Olive Lacey. Good afternoon. Welcome to our committee.

**Mrs Olive Lacey:** I'm pleased to be able to participate in these hearings on the discussion paper concerning the proposed tenant protection act. In the discussion paper the government proposes to make major changes to both the Landlord and Tenant Act and the Rent Control Act. As a tenant, I have been protected by the Landlord and Tenant Act and the Rent Control Act and its predecessor on several occasions over the past 10 years. I am very afraid that the proposed changes will leave me unprotected in the future.

It might be helpful if I give the committee some personal information about myself. I'm a 69-year-old senior citizen and a widow. I have minimal income which comes from the Canada pension and old age security. From May to October I live in a trailer park, just north of Peterborough, in Peterborough county. In the winter I live in a trailer park in Florida.

My husband and I bought our trailer after he was forced to stop working due to ill health. We were told by the doctor that he would be better off, healthwise, living in a warm climate during the winter. We signed a long-term lease for our lot at the trailer park in Peterborough county which will expire in 2004.

I have mentioned that on several occasions I have had to rely on tenant protection legislation. I would like to give the committee some details about those particular occasions.

Shortly after we moved into the trailer park, the park was sold and there followed a long period during which successive owners refused to repair or maintain it. During this period one owner tried to evict all the tenants by bringing one application in court. In that case the judge held that the landlord would have to bring separate applications for each tenant, as each tenant had their own lease. The landlord appealed the decision to Divisional Court, and when he lost there, tried to take the appeal to the Court of Appeal. However, he was not given leave to appeal.

The park fell into a terrible state of disrepair after a number of years during which there was no maintenance. My husband and I were forced to make a court application asking for an order that the landlord repair and maintain the park. The landlord argued that our tenancy wasn't covered by the Landlord and Tenant Act but the judge agreed that we were protected by the act.

In another instance our landlord cut off the water and hydro supplied to the park. I had to bring a motion to ask for an order that the hydro and water be reinstated. I was also able to get a court order requiring the owner to repair and maintain the park as required by the terms of our lease.

Because several successive landlords tried to increase the monthly maintenance charges above what was allowed in the lease and above what was allowed under rent control legislation, I filed an application under the Residential Rent Regulation Act in order to find out whether the act applied to my tenancy. The decision on that application was that the act did apply.

Right now the owner of the park is repairing and maintaining it. However, after buying the park, he required all the tenants to sign a new agreement for an increased monthly maintenance charge. All the tenants except me signed the agreement because they were tired of fighting with a long succession of landlords. I didn't sign the agreement because I felt my lease agreement, the Landlord and Tenant Act and the Rent Control Act fully covered all aspects of my tenancy. When I refused to sign the agreement, the new owner told me I would be summarily evicted in 2004, when my lease expires and I am 77 years old. So you can see why I'm afraid that any changes might leave me unprotected as a tenant.

I'm going to deal with a few points of particular concern to me now.

My first concern is that the government is considering lifting unit rent controls and changing to a system of sitting tenant rent controls. My landlord has already threatened to evict me at the end of my lease in 2004. If the government goes ahead with its changes, my landlord would be able to increase the rent for my lot by an unregulated amount if it were empty. As a result, if the changes go through, my landlord will have added incentive for trying to evict me at the end of my lease, so I'm asking the government to make sure that the rents remain controlled for units.

The second issue I would like to talk about is the situation where a landlord-owner of a mobile home park disposes of a mobile home because the tenant has allegedly abandoned the home. The discussion paper suggests a 60-day time period before the landlord can dispose of the mobile home. I do not agree with such a short time period before disposal. Many tenants like myself leave the trailer park during the winter months. We are absent for long periods of time. There could possibly be a situation where I could not return to the trailer park on time at the beginning of the season or where I could be absent from the park for a period of time during the normal season. There must be some kind of safeguard in place to make sure that landlords don't blindly make assumptions that if tenants are away for a long time, this means they have abandoned their mobile home. I feel that mobile home tenants are particularly vulnerable because the loss of their home or tenancy can often lead to a loss of their main financial investment. If we lose our homes, we basically lose our financial security.

The third issue I would like to speak about is the protection that tenants currently have from eviction because a landlord decides to close the mobile home park or land-lease property. In my experience, a mobile home park owner may decide to close their park because the park is in terrible shape after years of no maintenance and repair. If this government allows owners of mobile home parks to close their parks, then I think there will be a lot of closures across the province of Ontario. This will leave tenants with no place to move their mobile homes.

In my view, if the government is going to allow a mobile home park owner to close the park, then the government should require the park owner to ensure that the tenant has alternative comparable accommodations. The owner should also have to pay to relocate the tenant.



In conclusion, I would ask this committee and this government to consider the unique nature of mobile home parks. People who live in these parks, like myself, are often seniors and low-income people. Many have put a lot of their life savings into their mobile home. I've had 14 years' experience in a mobile home park and I feel that current laws provide me with adequate protection. If those laws had not been in place, I would have been evicted from my home. If those laws are changed, I am very afraid that I will lose my home.

**Mr Mario Sergio (Yorkview):** Thank you for your presentation. You have touched on many issues that we have heard not only today but wherever we've been holding hearings so far.

One of the things we heard was that if rent control is eliminated, you the tenant would have the right to negotiate with the landlord. If you are a senior on a fixed income like yourself, if you are a student with no income whatsoever other than what you may have provided in the summertime, and students are moving on an average every two to three months, if you are on social assistance and the landlord practically says, "Well, you're on social assistance and I don't want you," what would be the position of these people? If you are handicapped or if you belong to a minority group, how would you negotiate? Housing, we've been told, is an essential social or human need. It's not a can of tuna that you can bargain for. How would these people be successful in negotiating with a landlord when the landlord says, "This is my rent on this unit that just became vacant." What would be your position? Would you be able to negotiate a rent with the landlord?

1310

**Mrs Lacey:** I don't think so. How could you negotiate if he says, "This is it," and there's nothing to protect you?

**Mr Sergio:** Exactly. There is nothing left to protect tenants other than what the landlord is going to ask. In other words, you're saying that in the legislation as it is proposed there's nothing to protect those people, the most vulnerable ones. Do you see anything at all that you could recommend to us that we could recommend to the minister to change or include in this legislation?

**Mrs Lacey:** To change or include? As I said, the way things are now has protected me.

**Mr Marchese:** Mrs Lacey, I apologize for not being here while you were presenting. I forced myself on the television media because they didn't want a New Democratic perspective so I had to go and say: "But we brought in rent control. Don't you want an NDP perspective?" He couldn't assure me in the end that he would show it, but at least I got an interview. So I apologize for not hearing much of your presentation.

Is it a fair statement to say that about 80% of the people in your position are tenants and that they're at the mercy of the people who own the land, by and large?

**Mrs Lacey:** Yes. We have this lease until 2004. I don't really know how to explain this without going into the history of the park. The site plan for this park and what we were told when we went in there is that at the end of this term lease, with the owner of the park desperately trying to lease these lots, it would turn into a co-op and that this arrangement would go from owner to owner.

Since 1985 the various landlords who have been in there have not tried to lease lots at all; they've just been renting them as an ordinary park. Many of the leaseholders have left, but there are still quite a few who have leases. But the way it is, it'll never go into what we bought into it as.

**Mr Marchese:** Can I ask you, in your proposal did you mention things that needed to be corrected or were you just talking about this proposal?

**Mrs Lacey:** I was talking about the maintenance and such, the problems we have had with landlords previously, no maintenance being done, and I had to go to court several times to get things done, to prove that I was under the Landlord and Tenant Act and rent review.

**Mr Marchese:** I wish you luck.

**Mrs Lacey:** Thank you.

**Mr Bruce Smith (Middlesex):** Thank you for your presentation. I have to admit that from a personal perspective I certainly have a great deal of interest in the part of your proposal that deals with mobile home parks. I have a number in my riding, and by and large a number of those are occupied by senior citizens on fixed incomes, so I can appreciate the position you're taking.

I can tell you that the position paper itself does speak to obligations on the part of landlords to address maintenance issues. What we've heard from landlords or owners in these areas is that they're experiencing increased obligations to ensure that there is adequate septic service, adequate water supply, that in fact they don't have the ability to perhaps pay for the improvements that are being contemplated by various government agencies, be it a health unit, Ministry of Health or others.

In the paper we're specifically asking both residents and owners how we might address those because there is this problem across the province as to how we might address the pass-through of those costs. I'm just wondering, have you given any thought to how we might address this issue and how the costs, which in some cases are fairly exorbitant I would have to say, could be reached between residents and property owners themselves?

**Mrs Lacey:** I don't know really. I can only speak for this park that I'm in. As I said, it was a long-term lease park which we paid money up front and then at one point we each gave \$1,000 to upgrade the septic system and from then on it was maintenance that we paid and the maintenance referred to certain areas and it was classed supposedly from an itemized statement that they gave us of their costs.

**Mr Smith:** The other issue was concern with respect to the 60-day removal proposal in the paper. Both you and I know that you just don't simply pick up a mobile home and move it to another site in one day or two days. That's a difficult task and very unlikely to happen. Have you given any thought as to what the appropriate period should be? If 60 days isn't appropriate, what in your opinion would be the appropriate period?

**Mrs Lacey:** I would think if it's not used for maybe six months.

**Mr Smith:** Six months?

**Mrs Lacey:** Mm-hmm. If you weren't there for a full season, but I do think the landlord should find out why you're not there for the season, for the time.



**The Chair:** Thank you, Ms Lacey. We appreciate your input into our discussions.

### EMPRESS GARDENS RETIREMENT RESIDENCE

**The Chair:** Our next presenter is Shirley Shaw, who's the administrator of Empress Gardens Retirement Residence. Good afternoon. Welcome to our committee. The floor is yours.

**Mrs Shirley Shaw:** Good afternoon. My name is Shirley Shaw and I'm the administrator of Empress Gardens Retirement Residence. We're located at 131 Charlotte Street and if you look out the doors you can see us. We're the nice, new facility across the street. I would like to speak to you today about the Residents' Rights Act and the Rental Housing Protection Act; we are under the care home section. The proposed tenancy protection act removes some of the restrictions under the current legislation and we welcome these changes.

Empress Gardens Retirement Residence is an 86-bed care facility that has been open for nine years and in your package is a brochure of what we give out to prospective clients. We offer our residents 24-hours-a-day nursing care which includes registered nurses, registered practical nurses and health care aides and other such services, such as meals, snacks, housekeeping, laundry and maintenance, activities, social and spiritual. In clarification, care homes deal with all aspects of daily living whereas an apartment deals only with accommodation.

When a senior comes to look at our retirement home, they're given a tour and all of our services are explained to them. We then do a nursing assessment and if we feel that we can facilitate their care, the resident is given a medical form that their physician fills out prior to their arrival at our facility. A care home information package and a tenancy agreement form are given to them to read and sign at a later date. We explain these in great detail too because they're quite detailed. We encourage potential residents to take this information home, to read it over carefully with their power of attorney or their families.

If they aren't acceptable for our retirement residence, we refer them to continuing care placement coordination services. When seniors or families are looking for a retirement residence they are looking for services, staffing ratios and the added extras that come with a privately owned retirement residence.

1320

Empress Gardens belongs to the Ontario Residential Care Association, which is a voluntary, non-profit organization representing quality care homes. I'm proud to say that Empress Gardens Retirement Residence has received a three-year standard certificate. I was pleased to be involved as an area captain when the Residents' Rights Act and the Rental Housing Protection Act became legal to contact leaders to share our concerns. In our area I was really pleased with the good feedback that we received from them.

Some of the concerns that I brought forward at these meetings have been addressed in the tenant protection act. In particular, the termination of the Residents' Rights

Act, including removal of care homes from the Rental Housing Protection Act. The Residents' Rights Act deals with the physical units and doesn't address the changing needs of our seniors. The Rental Housing Protection Act is legislation that does not focus on residents' needs.

We support the termination of the rent registry which has been ineffective since the implementation. We have split our rent, care and meal services for our rooms to abide by this, and at this point nothing has been done.

We support the need for full information disclosure so that seniors can make informed and appropriate choices when choosing a care home. When a senior comes to our facility, we suggest that they go to other facilities in the area and compare what we have to offer and what they have to offer so that they make a good choice.

We support 24-hour room access when requested by the residents, their families, or power of attorney. The current legislation prohibits this despite the fact that a resident or a physician might request the night checks as their health deteriorates. Also, if a resident has a fall or doesn't show up for a scheduled meal, we at Empress Gardens check on the resident to see if they are fine — which is part of our services and which is part of the services they choose when they choose Empress Gardens.

When a resident in my facility needs a higher level of care, we assist the families in looking at every option of moving to an additional level of care from the possibility of purchasing extra nursing to the option of moving to a nursing home. I'm concerned if a resident refuses to move and refuses to have the proper safety care that is required. It will become a safety hazard and a moral issue with the family.

Use of the court system for evicting residents who pose a danger to others or themselves, for example, a resident who is cognitively impaired — this would be a very difficult situation. We are in the caring profession and to have to go through the court system to ensure proper care for our seniors would be contrary to the professional, caring environment that we are trying to promote and encourage at Empress Gardens.

We recommend that the rent and care services increase notices be given to any family member or power of attorney identified in our tenancy agreement. We are legally bound to issue an increase by hand to the registered occupant in the room. Nowhere in the legislation does it address the situation if a resident is physically or cognitively impaired to handle the situation. It is very upsetting to the family, to the resident and to myself and my staff, and it doesn't matter how much you explain the reason why, they don't understand.

The notice period should be reduced from the current 60 days when a senior wishes to move out or passes away. The lengthy notice time is often too much of a burden. This is an undue hardship placed on the residents and their families. I suggest that 30 days is a more sensitive notice time frame for a senior or their family who are handling the move, especially when a death is involved, which has been suggested in the tenant protection legislation.

The care home information package and tenancy agreement should be put into one package to facilitate a more simplified system.



The administrative burden these housing laws have put on care homes takes valuable time and attention away from the delivery of personal service and care to our residents. It does nothing to promote the quality of life for my residents.

I commend this government for looking at and changing this legislation and having these hearings. I would like you to take this a step further and have the Ontario Residential Care Association become the governing body for setting the criteria for retirement and care homes.

I would be pleased to show you our Ontario Residential Care Association certified retirement home, Empress Gardens. Sometimes seeing what a care home has to offer helps you to understand what I've been trying to get across — that care homes take care of the whole person, spiritually, mentally and physically. They become part of our family.

In summary, there's no need for this legislation in care homes. We are not aware of any problems in this area that would require this legislation. If you feel strongly that some kind of governing body should be done, it should be done by the private sector and, for example, the Ontario Residential Care Association is very involved.

I thank you for the opportunity to speak to you.

**The Chair:** Thank you very much. We've got about three and a half minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** Thank you, Mrs Shaw. We've had a number of advocates on behalf of people with disabilities and other mental illness problems, and they raised quite a number of questions with respect to what's in this proposal. They say in response to this, "Transfer residents to alternative facilities when the level of care needs change, subject to appropriate protections." Can you give us some examples of what some of those "appropriate protections" might be?

**Mrs Shaw:** I can talk about my facility, what happens there. When we have a resident who becomes either so cognitively or physically impaired that they need to move on it's difficult because, for one thing, I'm talking about seniors and finding long-term-care beds in the Peterborough area is very hard. We refer them, with the family, to the continuing care placement and then we wait. But if you have a resident who is cognitively impaired, who is wandering out at night wanting to go someplace and you're not a locked unit, we have to look at the safety and care of the residents. So what do we do? The only recourse — if the families say no, we love your retirement residence, we want the family member to stay there — is to go to court.

**Mr Marchese:** I take the position that sometimes there are people in some of these care facilities who need some protection. Now, we can all assume that all of you give the best care and that no one has to really worry about it because you're in the business of caring for people. On the other hand, a lot of advocates worry about what happens to many in terms of how they might be abused or possibly not treated well.

**Mrs Shaw:** And that's why we're saying that the Ontario Residential Care Association comes in and does evaluations. Their type of evaluation is very intense. They go through your nursing department to make sure you

have all your policies and procedures and you abide by the College of Nurses' criteria. So there's a lot of issues that they deal with. They're private sector and we pay to belong there, but when they come in and do an evaluation of us, if we're not up to standards we don't get it.

**Mr Marchese:** How would we prove — how would a frail person who is in your care who might feel that there's an abuse ever prove that somehow they've got a problem? Because, as we've been told by many seniors, as they get on in age they become very frightened, and they particularly become frightened of people who care for them. Given the fact that these people would come and visit you and investigate or do whatever, look at problems, how would they ever come to expose a particular individual problem where a senior would be frightened to death to report that problem?

**Mrs Shaw:** I would hope that their families would be involved. Another scenario is what do we do as caregivers if we find that we don't think the families are giving us enough support because we're concerned about the resident, their family member, and we're saying to them it's a safety issue. This person could go out and get killed wandering the streets because you don't want to pay for extra care or you don't want to place them in another facility because you like this facility. So it works both ways.

**Mr Marchese:** It sure does.

1330

**Mr Bart Maves (Niagara Falls):** Thank you for your presentation. A quick question: On page 3 you say, "We support the termination of the rent registry which has been ineffective since the implementation." I wonder if you could elaborate a little bit and explain that to me.

**Mrs Shaw:** Yes, I can. I've been in the medical profession for some 22 years and I've been at Empress Gardens for 10 years. We've always been very up front with our seniors. I'm talking about my retirement residence; I can't talk about anybody else's in Peterborough. But when the rent registry and the rent controls came in I had to sit down and learn a whole new system. I had residents who had been there since I'd been at Empress and I had to explain to them that we had to go into their rooms and decide, if they moved out, could we separate — because in our facility we have a bedroom and living room and four-piece bath, and some of those could be technically classified as two bedrooms. So I had to go into each room in Empress and decide what to do, because it's never been done before. We had to say how much was going to be for the rent portion, how much was going to be for the care services and how much was going to be for the meals. Then, after all that, I had to explain to my seniors and their families what was going on.

We did all that, and nothing's happened, because nothing's been in place. We've got it all done. We haven't registered it because the care home sector is on hold because we changed governments.

**Mr Stewart:** Thank you, Shirley. Just a couple of questions. I appreciate that there has to be protection on both sides. First of all, I believe that most of the retirement residences are members of the association.

**Mrs Shaw:** No, they're not.



**Mr Stewart:** They're not?

**Mrs Shaw:** No. In fact there are only two in Peterborough, myself and another retirement residence. That's one of the things that should happen, that if you have an association and you have a group of retirement homes, they should all belong so we're all following the same rules.

**Mr Stewart:** A final question. I don't know whether the committee realizes just how serious this problem is in retirement residences, and I'm going to be maybe a bit overemphatic, but I can tell you that people are going to die who have not signed the necessary forms etc if this legislation is not changed. I might be a little overemphatic, but I don't think I am.

**Mrs Shaw:** We have 24-hour-a-day care. That doesn't mean we're a locked facility, it doesn't mean there's a nurse in their room constantly, but if you have a resident who has a history of strokes who doesn't come for a meal, if they haven't signed that we can go into their room, what are we supposed to do? Leave them on the floor because the Landlord and Tenant Act says we can't go into their room? Personally, I would take the risk and have them charge me, because I'm a nurse and I feel that's part of my job.

The families at Empress know that. They understand that when you look for a retirement residence, you look for what the service is, you look for the staff, to make sure the staff are going to understand that you want your mother or your father looked after. They know it's a privately owned facility. They know they're paying for the costs, they're paying for the services. Long-term-care facilities are far and few between. We have residents who are waiting, and they're waiting and they're a safety hazard.

It's true, and God forbid it ever happens with our place, but it will be upsetting because we care about our residents. They understand this because I've had meeting after meeting after meeting with them to explain to them about what happened with rent control. I gave them all the information the government said. I explained to them. I told them to write their MPP at the time, Jenny Carter. I said: "Write everybody. This is as much your responsibility, as much your children's responsibility." At some point we're all going to get to that age where we're going to want to be protected.

**Mr Curling:** Thank you, Mrs Shaw, for your presentation. The approach this government is using is that the status quo is not working so we should throw the baby and the bathwater out and start all over again. I'm concerned about that, while I'm very sympathetic to what you're saying. I agree with what Mr Stewart's saying when it comes to this aspect of it and I also fully agree with you about this aspect. I'm concerned that it is caught up in this legislation. I don't know if this does anything to help — maybe it impedes it — to have the proper service.

When you were explaining about the rent registry, I presume you were only explaining from your point of view, not that we should throw out the entire rent registry, regardless of where it serves, so it could serve you. Am I right that when you were speaking, you were only speaking specifically about your area, that the rent

registry confuses and impedes in some respect the care you want to give. Am I right in this?

**Mrs Shaw:** I'm speaking on care homes, yes, just the care homes.

**Mr Curling:** I don't want to put words in your mouth. You have not looked in any way at the other areas to say the rent registry serves other areas effectively.

**Mrs Shaw:** I'm talking about care homes in Peterborough. I really can't talk to you about the rent registry in Toronto or other areas, but I know in Peterborough for care homes it isn't. I know for a fact that other retirement homes aren't doing what legally has been put down. I'm not going to say who, but my feeling is that it should be Peterborough retirement and care homes.

**Mr Curling:** Specifically care homes. You see, this government has entered the negotiation business, that you have to go out and negotiate everything, even your tuna fish. If you want it you must go out to the shops and negotiate for your tuna.

**Mrs Shaw:** I don't eat tuna fish.

**Mr Curling:** And you have to negotiate for your home. I'm saying that the rent registry serves as a very effective tool for one to know what they're buying. But in your area, you're saying it doesn't help at all.

**Mrs Shaw:** They do know what they're buying. When they come into Empress Gardens, they know what they're buying. Even 10 years ago, when someone walked in they were told: "This is the rent. These are your services. This is what you're getting. You're getting three meals a day, two teas, housekeeping, laundry services, nursing, church activation," everything. You're told. If you look in the package, it's part of the package. It tells you everything you are paying.

**Mr Curling:** Let me tell you one of the shortcomings I found in this package, and you may agree with me: that it seemed to be done in isolation. In other words, I don't see the Ministry of Health playing a role in these New Directions, I don't see the Ministry of Community and Social Services playing a role in these new New Directions. Without having a housing policy that includes all that, you people are caught in the fact of, what role does health play in this? I think more should be done. This discussion paper is a hurried thing. It has to be more comprehensive than it pretends to be.

Would you agree with me that more of that should be done and that we should not rush into changing legislation unless we have some wider —

**Mrs Shaw:** I think for care homes it should be private and you should have people who know medical and services.

**The Chair:** Thank you, Mrs Shaw. We do appreciate your input here.

YWCA OF PETERBOROUGH,  
VICTORIA AND HALIBURTON

**The Chair:** Our next presenter represents the YWCA of Peterborough, Victoria and Haliburton, Karen Hjort-Jensen and Lynn Zimmer. Good afternoon, and welcome to our committee. The floor is yours.

**Ms Karen Hjort-Jensen:** Thank you. The YWCA of Peterborough, Victoria and Haliburton offers a continuum



of services for women living in or leaving abusive relationships. These services include rural outreach, support groups, shelter and support at two women's shelters, and a 40-unit second-stage housing community for single women and women and their children. In addition, the organization works with women and their families who live in poverty utilizing a community development model. Essentially that means that the community identifies the issues and the solutions, and the process is community-driven. The majority of the clients we serve are on social assistance or are low-income working women. Locally our YWCA has been in the housing business for over 100 years. Two of the stated aims of our organizations are that women and children will be free from abuse and poverty, and that there will be safe, accessible and affordable housing choices for women and their families.

Our presentation to the committee will focus on two perspectives: the impact of this proposed legislation specifically on women choosing to leave abusive relationships; and the impact of this proposed legislation on applicants to our second-stage housing and on the families currently living there.

In the interests of allowing the committee time for questions, we will not be focusing on the broader implications to non-profit housing providers. The YWCA has been involved in discussion of those issues in preparation for a presentation by the Social Housing Contact Group of Peterborough; that group will be appearing before the committee later this afternoon. Nor will we focus on the implications regarding maintenance, the proposed setting up of an administrative tribunal, security of tenure and conversions etc, since we are certain that concerns we have in this regard will be echoed over and over again by individual tenants and by groups working for social justice.

I have to interject here to say that we will be specifically focusing on issues pertaining to women and I find it a little bit disturbing that there's not a single woman on this panel.

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The proposed changes to legislation cannot and must not be looked at in isolation. We believe they must be viewed as only one plank in this government's overall housing policy — a policy that appears to use a scatter-gun approach and ignores the complexity of legislative changes that have increasingly impoverished people. This government has already stopped the building of any more affordable, non-profit and cooperative housing, and is systematically destabilizing existing non-profit and cooperative housing providers through ongoing potentially unmanageable budget cuts. This year the government's constraint plan cut \$23 million from its non-profit housing program, and although nothing has been officially reported for 1997, indications are that the cuts are going to be far deeper.

The proposed changes must also be contextualized within the political and economic realities of women living in this community. We cannot talk about proposed changes to tenant protection legislation without looking at some local demographic facts. The local press reports that within this community, one in six persons relies on

some form of social assistance, and families receiving general welfare assistance or family benefit assistance have 21.6% less to spend on their essential needs, including housing, than they did a year ago. Additionally, Betty Scott at the food bank recently reported that they served 17,000 children, women and men. It is no accident that I list children first, because children in this community are the largest users of the food bank.

Individual landlords and the Peterborough landlord association will no doubt report that there are many vacant apartments in the city, and that is certainly true, especially in the summer months when the Trent and Sir Sandford Fleming students have returned home. However, in checking the rents of these apartments, they are already not affordable to the client population we serve. A single woman on welfare cannot afford \$350 for a one-bedroom apartment, let alone \$500. A single mom with one child receiving social assistance will get a maximum of \$517 for shelter. A recent inquiry identified that the most affordable two-bedroom apartment available from a major landlord was \$650, plus heat and hydro. Minimally, one in six people in Peterborough cannot afford these apartments.

Vacancy decontrol will probably not affect the apartments renting at higher end of market, but it will almost certainly affect those apartments at low end of market, and those apartments are the ones that at this time are barely affordable to the clients we serve.

At the beginning of August we were shocked and dismayed to learn that the Peterborough Housing Resource Centre, which assists the most vulnerable in our community secure and maintain housing, has been advised that its provincial funding has been terminated effective August 31.

And finally, let us not forget the young man who was recently found dead in a vacant apartment in Peterborough from which he had been evicted and to which he still had a key. He had nowhere else to live.

The rental situation in this community is already bleak for the most vulnerable people who live here, and the proposed changes to existing legislation will only serve to exacerbate an already potentially dangerous situation.

The Stats Canada 1993 survey indicated that one in six currently married women reported violence at the hands of a current or past marital partner. When women are wrestling with a decision to leave an abusive relationship, invariably they end up having to choose between violence and poverty. For a woman who is courageous enough to make this decision, her most difficult task is to find housing that is safe, accessible and affordable. If she cannot find housing that she can afford and is safe, it is difficult for her to leave. We are deeply concerned about the implications of vacancy deregulation on these women. It has been our experience that they already experience difficulty in locating suitable housing within the private housing market. This proposed legislation will mean that every single woman leaving an abusive partner will be facing a deregulated rental market.

Our comparative statistics for the past two years are identifying an alarming trend. Already it appears that fewer women are taking the step of leaving a relationship and coming into the shelters, whereas the need for crisis



intervention and support to women staying in abusive relationships has increased. This tells us that women recognize that, should they decide to leave, the resources available to them are dwindling. Probably the most critical of these resources is safe and affordable housing.

Our community development department advises that an anti-poverty network recently published a report on the effects of deregulation in the United States on women living in violent relationships. This publication was attempting to make links between changes in the United States and the proposed changes in Ontario. The data demonstrated very clearly that in the US the program was ineffective and was actually more expensive, in that there was an increase in the cost of police services, an increase in long-term costs of social service programs for children remaining in violent families and, finally and most alarming, there was an increase in the cost of human lives.

Our other concern regarding women leaving violent relationships is that we believe the proposed changes to legislation increase the potential for discrimination on the basis of number of children, source of income, moral judgements etc. Under the proposed legislation, a landlord will be able to negotiate the rent with an incoming tenant. If the landlord decides that he or she does not care for the prospective tenant, doesn't like the way the children behave or merely believes that women should not leave their partners, this legislation would permit that landlord to quote a rent that is not affordable to her. Subsequently, the rent can always be renegotiated downwards, on the ground that it had not been possible to rent the apartment at the higher rent, with another applicant who may appear more suitable. This discrimination in a deregulated situation would be almost impossible to prove and would render the women and children we serve more and more vulnerable.

The Ontario Human Rights Commission declaration of management policy states, "We observe and uphold the Human Rights Code, 1981," and, more specifically, "The code provides for freedom from harassment or other unwelcome comments and actions in employment, services and accommodation on all of the grounds, including marital status, family status, the receipt of public assistance." There is an obvious contradiction between that declaration and the likely effects of the proposed changes to tenant protection legislation.

The proposal to permit the landlord to increase the rent when a tenant leaves certainly opens the door to harassment of sitting tenants. We are concerned about how this will impact on women who have already experienced abuse within their primary relationships and believe this potential for harassment could lead women into a cycle of changing apartments and, ultimately, homelessness.

This legislation proposes an enforcement unit, but this government's track record of cost-cutting makes it unlikely that this unit will be adequately staffed. The current provincial government, both during and since the election, has frequently made zero tolerance, politically correct statements; however, the systematic dismantling of the tenuous support network of supports that help women leave abusive relationships does not back up this rhetoric.

From a housing point of view, I do not understand how the stated goal of "protecting tenants from unfair or double-digit rent increases, evictions and harassment and to provide strong security of tenure" is going to be achieved through vacancy deregulation, rent negotiation, making eviction of sitting tenants more attractive to landlords seeking rent increases, eliminating the need for municipal approval for demolitions, conversions and major renovations, and the setting up of tribunals. In fact, I would respectfully suggest that these proposed changes will have the exact opposite effect.

The YWCA of Peterborough, Victoria and Haliburton owns and operates Centennial Crescent, a 40-unit, second-stage, non-profit housing community for women, and women and their children. During the first four and half months of this fiscal year, we have received almost as many applications for housing as we did for the entire 1995-96 fiscal year. On the other hand, our turnover rate, which, because we are second-stage housing, has been as high as 45%, was down last year to 15%. More disturbing to us is the increase in calls we've received from women in housing crisis: 98% of our current applicants indicate their source of income as some form of social assistance. With the reduction last October in social assistance benefits, many more of our applicants are indicating lack of affordability, as well as abuse, on their applications.

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I recently received two separate telephone calls from women who are living in tents with their children and have no place to go, nor can they find an apartment they can afford. One of the women indicated that she left her apartment because she was continuously being harassed by her ex-husband. I can't help but wonder how vulnerable she must feel sleeping with her children in a tent. Under the proposed changes to legislation, every single applicant on our list faces an unregulated rental housing market.

Centennial Crescent is 100% rent-geared-to-income and fits the criteria of affordable housing. The tenants at Centennial Crescent could in some ways be considered more fortunate than other tenants. Although last year we lost 100% MCSS funding for the support services attached to the second-stage housing, we have, through organizational resources, been able to work with the tenants from a community development perspective on their identified needs.

They are able to stretch their monthly income through food security programs, including distribution of food donations, the monthly good food box and a community garden. They also have seasonal clothing exchanges to help with the clothing needs of their growing children. But they also recognize that under the proposed changes, if they were to leave Centennial Crescent, there would be a scarcity of affordable housing and they would be plunged into a deregulated housing market.

It precipitates an uncertainty and fear for the future, and some tenants have indicated that although they are content to live at Centennial Crescent, they feel trapped and unable to leave. As an organization which provides second-stage housing to women and children leaving abusive relationships, it has been our hope that



Centennial Crescent will be a bridge for women and that they will, at a time that is appropriate for them, move on, thereby making their apartment available to another woman who has made the decision to leave an abusive relationship.

It appears from studying recent trends that the proposed legislation, in concert with changes which impoverish women, could well mean that women will choose to stay indefinitely at Centennial Crescent. That's fine, if that's what they need to do, but within a deregulated rental housing market, where will the other women go who need a safe and affordable place to live? How many women will be forced to stay in situations that could cost them their lives? Thank you for your time.

**The Chair:** Thank you very much. We've got about two minutes per caucus for questions, beginning with Mr Maves.

**Mr Maves:** Since Mr Wettlaufer has a question, I'm just going to make a quick statement and let him continue. You mentioned at the beginning the lack of women on the committee. Just for your own peace of mind, I'd like to let you know that Ms Marland, Ms Bassett and Ms Ross have all sat on this committee, Ms Ross for a full week. So there has been representation from women from our caucus.

The other thing is that we still do have \$1.5 billion in housing subsidies out there for non-profits and \$2 billion for housing subsidies through social assistance, so there's still quite a chunk of money out there for it.

**Mr Wayne Wettlaufer (Kitchener):** Thank you for your presentation. I've been researching the problem of abused women for the last number of months. I have to tell you, if my wife and my daughter found out suddenly that I didn't care about women's issues, they would be very concerned, so I would like to assert to you that I am very concerned about women's issues.

Do you not feel that with 50% of the rental units in the province right now not at their legal maximum rents, even though landlords could charge the legal maximum rents, the market forces are helping in that regard and that deregulation won't really have that much impact?

**Ms Hjort-Jensen:** As I said in the presentation, I don't think it will affect the higher rents. I think those will stabilize. However, I am really concerned that it will affect the low end of market rents. As I stated, we did some research prior to making this presentation, and the apartments that were available in the paper — we made some calls — are not affordable to 98% of the applicants on our waiting list; already they're not, so I don't see how taking rent controls off is going to make that situation any better. The reduction in social assistance benefits obviously hasn't changed that situation. Their rents are still affordable despite the fact that one in six people has suffered a 21.6% decrease to the amount of income.

**Mr Curling:** Your presentation is focusing on the most vulnerable individuals in this situation of change. You have worked at first hand with women who have been abused, as you stated in your presentation. Would you say that this discussion paper, leading to the legislation they intend to do, poses a question that abused

women would have to consider all over again: "Which is the greater abuser, the one who is beating me every day at home and psychologically destroying me, or legislation that sends me out there to be subjected to negotiating with a landlord who economically can abuse me or that may isolate me because my income has been depleted in some respect and I would be in a worse position?" Is this the kind of thing you're saying would displace these people or put them in a much more difficult situation to negotiate?

**Ms Lynn Zimmer:** I think we would agree. I think we would also be very concerned that women who are barely escaping a situation of abuse haven't had much opportunity to develop their negotiating skills. They're not in a strong position to begin with when they're looking for housing, and they haven't had life circumstances that have led them to have any confidence or even much ability to negotiate. They're used to being bullied and they are easily intimidated by situations where somebody has some control over their lives. It's not a good time in their lives for them to come with any kind of strength to a negotiation with a landlord.

**Mr Curling:** Quite often, the government feels there are individuals in units who have a high income and can pay more and that they should be out. The strategy that has been used by the government is to make it more difficult for individuals, especially the most vulnerable in our society, like those on welfare, by reducing their income by 21.6% so it chases quite a few low-income people out of those units to find some other terrible place to go and free up those.

**Mr Marchese:** I want to thank you for at least doing what Ms Powell has done in one area, to say that the stated purpose of the government is contradicted by the substance of the report. It does nothing for tenants, as it purports to do, and it does nothing to create more affordable housing or housing in general, because there's nothing in this document that speaks to that.

Ms Powell also says we have an affordability problem. There are vacancy rates, but people can't afford it. She stated that only 3.7% of the total housing stock in the Peterborough area is made up of social housing. She points out that people can't afford to get into that rental accommodation that's at the high end. She also pointed out that even though you have high vacancy rates, the rents haven't gone down, contrary to what people will say happens when you have high vacancy rates.

The third point I want to touch on is the point you made about tenants having a problem if they remain in a system where they say they're going to deregulate the system. It's a problem, because many have stated, "We're sitting ducks."

In the situation of abuse against women, it's a choice between violence or poverty, which is even worse than for some others who may not be in that same position but find themselves trapped. You're not the only ones who have talked about the fact that people will be trapped in situations that are unhappy, unwelcome, and at times violent. I thank you for bringing that to our attention again.

**The Chair:** Thank you very much, ladies. We do appreciate your input here today.



1400

### SENIOR CITIZENS COUNCIL PETERBOROUGH

**The Chair:** The next presenter is representing the Senior Citizens Council Peterborough, Jean Burkholder, president. Good afternoon and welcome to our committee. The floor is yours.

**Ms Jean Burkholder:** Thank you very much. If the Peterborough twins, Harry and Gary, haven't already done so, may I welcome you all to the beautiful part of Ontario known as the Kawarthas.

There is actually very little in this discussion paper, which is misnamed the "tenant protection legislation," New Directions, that we can support. This document, apparently based upon economic studies for Metropolitan Toronto, shows little appreciation for the rest of the province and none for the vast rural areas. It is within this context that we present our brief.

We are the Senior Citizens Council Peterborough, serving county and city. We provide home support services to seniors over the age of 55 and to the physically challenged 45 years plus. This is done through our 10 community care service centres, from the north shore of Rice Lake to our most distant location in Apsley. Through a small, hardworking staff and some 700 caring volunteers, our clients have access to transportation, home maintenance, a variety of meal programs, plus a broad range of other services unique to each community. The everyday close contact means that we are intimately familiar with the many personal problems encountered by our client base.

Of all the services we provide, however, it is through information and referral that we hear most frequently about these situations and are asked to assist. In the last year we had approximately 27,000 such calls. It's unfortunate that this current provincial government has seen fit to cut the funding for that particular service.

Our client base constitutes almost 30% of the global population, county and city. Those 55 plus are estimated by the district health council as 26%, with more than 3% for the physically challenged 45 and up. Yes, we have a large segment of our population aging in place, and this area has become a popular retirement community.

In the Peterborough profile, we find that 39% of residents rent shelter in the city, and 12% in the county are tenants. Among these is a high proportion of seniors, with many from rural communities gravitating to the city simply because this is where the services and the facilities are available.

We are therefore looking at a large and aging population with low fixed incomes. It is our estimate that more than 50% of our client base have incomes substantially below the poverty line. Those 65 plus who receive OAS, GIS and GAINS had a total income of \$11,620 last year. Disability pensions are substantially below that figure.

There is hardly an item purchased, goods or services, which has not increased in cost, at least on an annual basis. Most recently this population segment, among the most vulnerable in our society — these people are not the ones who are able to go out looking for a job — have had to face an additional cost for their medications: the \$2 user fee. All increases must be accommodated within

the same meagre individual budget, often requiring a reduction in one or more essential segments, and even resorting to dented cans of tuna becomes somewhat daunting over time. What then is this very vulnerable segment of our society to do in the face of probable increased costs for shelter?

This whole document places an added stress factor upon people who are already very stressed and is very detrimental to their health, which will add greater stress to the health system.

Under rent controls, these now apply to all rental units except those in new buildings. It is proposed that this control would be removed when an apartment becomes vacant. Any prospective new tenant must then negotiate with the landlord before rent control is reapplied to the new amount.

Seniors, and particularly the more elderly, are trusting souls, accustomed to the days when a deal was made on the shake of a hand. They and the physically challenged are very vulnerable to manipulation and coercion. These are the sort of tactics most likely to be employed by small developers or landlords, and particularly in rural and smaller communities where they think they can get away with it.

Vacancy decontrol means the slow death of rent control. While a large number of seniors like to settle down in one place and stay there, what about those who, for a multitude of reasons, must relocate? There is the death of a loved life partner bringing about a reduction in income and inability to cope with larger accommodation. Rural seniors frequently find themselves removed for a variety of reasons from the family home, which is invariably a farm, and look for shelter elsewhere.

The physically challenged in the county have an even more difficult problem: Accessible units are few and far between, to say nothing of the support services required. For instance, the only mode of transportation available in the rural area is our own Caremobile.

It is the tenants in small buildings, in basement apartments or flats of a privately owned home who will be subjected to subtle and not-so-subtle harassment when the landlord thinks a new tenant would pay a higher rent. Tenants in this situation are usually on a verbal month-to-month lease, which is even more insecure. There can be intolerable noise, intermittent lack of hot water or heat, a sudden change in privileges, and on and on and on.

It has been said that one in four tenants moves each year. If that is so, then the present rent control ceiling will have effectively disappeared in about four years. Oddly enough, this is just about the time of the next provincial election. It is important for all members of the panel and all political parties to note that as a group, seniors have consistently exhibited the highest percentage of voters at the polls. We are also like elephants — we have long memories.

Property standards violations: All tenant complaints and concerns about building maintenance would be dumped on the shoulders of municipal governments as proposed in the discussion paper. Local building inspectors would be trained, but there would be no funding available to hire this additional staff. Municipalities



would supposedly be given the opportunity of recovering costs through charges to landlords and possibly tenants.

In our global community, only the city has inspectors mandated to command adherence to local building and associated health standards. We have been informed that there has never been sufficient personnel to carry out these responsibilities, and in the past year more and more responsibilities have been downloaded on to municipalities while at the same time transfer funds have been cut.

In the rural communities and the villages, this whole proposal is nothing but a pipe dream, again emanating from the big city down there, which fails to appreciate the realities of life in the greater part of the province.

Download costs on tenants? Why? If the landlord is at fault and does not maintain the property, then she or he should bear the financial costs. How would you expect a low-income tenant to cope with this cost from a meagre, challenged budget? Rather than try, most vulnerable individuals would simply put up with substandard living conditions.

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We agree that in some instances it would be very appropriate to increase fines for deliberately negligent, and usually absent, landlords. Numbered companies, and we have many in Peterborough in the city, usually headquartered elsewhere, are reported to be the worst offenders.

Under the Landlord and Tenant Act — we would like to say at this part this is the good news — for the most part we agree with the proposals under this section. We're concerned, however, about suggestions regarding the enforcement of complaint procedures in the event of evidenced harassment. As previously stated, elderly seniors are more likely to try coping rather than face the situation and the tormenting landlord head-on. They may complain to a service volunteer or to a community service agency such as ours. Usually they are looking for an advocate who will investigate and correct the problem on their behalf.

Until the end of this month, the Housing Resource Centre filled this role with sympathy, understanding and energy. Unfortunately again, the funding has been cut. This agency will disappear and create a very large gap in our community. In the past year alone, the Housing Resource Centre has given assistance to some 79 seniors, most of whom were living in flats or basement apartments in small buildings. Where would you suggest that these elderly tenants now take their problems?

Where will the enforcement unit referred to in your discussion paper be located? Belleville? Kingston? Oshawa? How will tenant applications be fast-tracked? By whom? What is the application procedure? Will it be written in simple language? Will the applicant require the services of an agency such as ours? We have had extensive experience in completing forms for clients. How will that service be funded? Certainly your new access centres are not prepared to undertake this task of filling out forms for clients.

In the dispute resolution system, we see many problems in these suggestions and generally favour remaining with the current autonomous court procedure. Any tribunal that may be organized is very open to patronage

appointments. Where would such a body be located? Would it require that the applicant to travel at their own expense? How would they get there via public transportation? Do you know how you get to Belleville from Peterborough? You go to Toronto first. Would the applicant be charged a fee? Why? Is it affordable for low-income, vulnerable tenants?

As to conversion to condominiums, at the present time any conversion of rental housing is protected. Low-income tenants rent because they cannot afford to purchase, whether that is a single family house, a condo or any other type of purchased unit.

In the Peterborough area, it would be ridiculous for any developer to convert a building as suggested in the discussion paper. Compared with many other areas, such as the GTA, for example, condos are generally much more costly here and prospective purchasers, including seniors, who are able to do so tend to look carefully at the very different and lower cost of a detached home in the new developments.

It is the possible conversion of buildings as detailed under the section on care homes that is more likely to occur here. There have already been discussions among certain real estate interests in this regard, and there is a persistent rumour — let's hope it is only that — that our largest long-term-care facility is considering some type of conversion or redevelopment.

But none of this gives consideration to the plight of sitting tenants, especially low-income seniors and the physically challenged. What would the provincial government propose with regard to those who cannot afford to purchase and probably need some degree of rental supplement?

Under care homes, I would pose to you that the use of the term "care homes" is confusing and misleading. The general public, and most seniors, think this is a reference to long-term-care facilities. They still tend to call them nursing homes or homes for the aged. Once again this government has chosen to use terminology widely recognized in the community and referring to a quite different entity.

We endorse and support the submission and recommendations of the Advocacy Centre for the Elderly which was presented to this panel last week, on August 20. We can see no point in repeating everything they said in that voluminous document.

We are especially concerned about the rights to be given to operators of these facilities. In all instances, agreement must be given by the tenant or the appointed substitute decision-maker. Some of these so-called rights would be like an open sesame for unscrupulous operators, especially in relatively remote rural areas. Not all retirement homes or similar buildings are regulated. Even some registered homes are not adequately inspected. Who will be responsible to see that the rights of the tenant are always first and foremost?

Now we get to something which is related. Public housing tenants: There's no reference in the discussion paper to tenants in OHC units. Although their buildings come under various pieces of current legislation, there is no apparent acknowledgement in the discussion paper of the effects of the proposed changes after these establish-



ments are privatized, this despite the fact that it seems to be generally known that legislation authorizing the privatization of public housing is expected to be tabled in the provincial House this fall. When this occurs and public housing comes under the aegis of private developers or landlords, what will happen to the comfort and security of tenants who are dependent upon RGI accommodation?

In the county and city of Peterborough there are nine buildings administered under the Peterborough Housing Authority. There's a total of 446 seniors in these buildings: 129 in the county and 317 in the city. As stipulated in the qualification criteria, all are on a low fixed income and all are worried about having a roof they can afford over their heads in the future.

The Public Housing Fightback Campaign has provided information and petition forms to the residents' committees in these buildings. The feisty seniors, all of whom by the way are women — note that, guys; it's women who do it — in one of the largest buildings in the city have not only completed a form for their building but also obtained one from another building and are, as we speak, gathering a third.

Petitions from OHC tenants in the county are to be forthcoming shortly. All will be forwarded to the Legislature through the appropriate MPP — yes, I'm going to meet with you guys — by the Senior Citizens Council Peterborough. In these petitions the signators protest not only the changes proposed in New Directions but also various other actions by the provincial government which have eliminated important tenant services at a time when tenants' rights are being attacked. All this is happening at a time when we should recognize and honour Ontario's father of public housing, social activist Albert Rose, who passed away earlier this month. May his memory live long among those who benefited from his foresight.

We cannot leave without referring to rent supplement units. The local housing authority also administers 355 rent supplement units throughout the county and city, the majority in the city — 99.9% are in the city. A majority of these are occupied by seniors. What plans does the provincial government have for these tenants?

Gentlemen, I point out to you in this respect that you cannot cut into a pie without destroying the circle.

**The Chair:** Thank you very much, Ms Burkholder. You have effectively used up your 20 minutes, so unfortunately there's no time for questions, but we do appreciate your input here today.

Just for the information of those who are with us, we have a former NDP member and Minister of Energy, Jenny Carter, in the audience; and we have Peter Adams, a former Liberal member of the provincial government and current MP in the federal government.

**Mr Curling:** Mr Chairman, just a quick comment about Albert Rose, who served Ontario Housing very well. His passing is regrettable. Thank you for bringing to our attention Mr Rose's death. I'm sorry to hear that because I worked with him when I was the Minister of Housing.

**Ms Burkholder:** I worked with him when I was on the Metro social planning council and he was the first researcher hired. I also worked with him in Metro

Toronto. I have only lived in Peterborough for seven years, but by golly, I support it.

**The Chair:** Thank you very much.

1420

## GREEK CANADIAN COMMUNITY

**The Chair:** Our next presenter is Jim Kabitsis, secretary and chair of the Greek Canadian Community. Good afternoon, sir. Welcome to our committee.

**Mr Jim Kabitsis:** Good afternoon. Thank you, Mr Chairman. I appreciate the time you're giving me to speak a little bit about the situation the way I see it with the Landlord and Tenant Act.

It was the policy of the previous government, in a way, that rents have to be controlled, and I believe they should be, and in order to balance controls we must have public housing. Without public housing there is no counterbalance.

I believe strongly and the Greek community in the area of Simcoe county also believes that rents should not be entirely of the free market. I believe that for the population of our country, especially in the area of Simcoe, where I live, this is very important, because you should know that a lot of people there cannot afford to pay high rents with the income they have. If you take what they receive as allowances from the government, a small minority, maybe 10% or 15% of the population, receives about \$900 or \$930. Probably you know that. Some others don't receive more than \$750. If they pay 50% of that in open market rent, they'll be unable to feed themselves, and this is the truth. There's a large population that makes a large amount of money and they can afford to pay \$1,000, \$2,000 or \$3,000 a month, but they're a very small percentage of the population.

I would like to bring up a number of other matters. I believe there should be controls to oversee rental prices and they should be according to what people are making. The majority of the Canadian population does not make more than \$20,000 per year. Some of them don't even make that, \$12,000 or \$10,000 per year, and if they are charged \$1,000 for accommodation, they'll need that to pay it. This is a problem, and the government should take steps to foresee and stop it. Stop any particular operators of big corporations.

There's the small homeowner who will step forward regarding the question of non-payment of rent. The majority of small homeowners have a problem, I believe strongly, and they don't understand the act.

I talked just yesterday to a lawyer in the town of Orillia, where I live, and he told me about a couple that have a house, they are retirees and they decided to rent out the basement apartment. It took them four months — at the beginning they started by themselves — to get this person out because he was not paying the rent. It's a problem. Some people don't know how to fill out a number 4 form. All of you are aware of the number 4 form that you use it when you go to court. That form says on top that you have asked the tenant, let's say Mr Jim, for some date; you have to put it 25 days ahead of time.

The majority of people don't understand the whole thing and they go to a lawyer. I don't like to say any-



thing against lawyers, I like lawyers, but the thing is when they go to the lawyer, the lawyer knows all about it and he says, "Okay, we've got to have an appointment." He gets an appointment and it takes a few days. To go to Barrie it takes two hours, and he's going to charge \$150.

The situation there is, to my knowledge — I put it in a small document and I will give it to you if you like — you must have an entirely different system, not general courts. When you go to the registrar, the registrar will take the procedure and it takes one week, two weeks, depending. If you are by the weekly rates, then you run into a problem; maybe it's easier if you can. But if a gentleman or a homeowner has a small house with one basement apartment and it takes four months to get a person out because he purposely doesn't want to pay, he spent the money, there must be another way, I believe strongly, to evict that particular person.

I'm sorry, sometimes I make mistakes with my English but I think every one of you understands me.

Here's the problem, and not because I disagree with what happened, because some of them were my friends. Prime Minister Bob Rae used to be my friend, and I knew Mr Peterson too. I also know the Speaker of the House, Mr McLean, very well. Regardless, I will say this: They passed a law regarding the motel-hotel industry, and the motel-hotel industry has a problem. If you have somebody by the week, you've got to notify him if you want to evict him.

I think this must be separated. The Innkeepers Act must go in place and the Landlord and Tenant Act must be different because small operators have 10 to 25 or 30 rooms. They're working there as a business. They pay commercial taxes but they also collect GST and PST. The PST, maybe some in the audience don't know, is 5% at the level of the room, to rent a room, and 7% for the GST. That creates a big problem for someone who is refusing, and he knows he has the right.

I will say that is not everybody; not the whole population or all tenants make such a bad situation. There are some good tenants, and I know, because I have some who are very good; they pay up. But where they cannot afford it with the money they receive, there's a problem, and they must be protected.

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Also, it has to do with a deposit. You mentioned in your document the deposit. A lot of owners or somebody who rents an apartment must take a small deposit and that deposit must be a deposit and not last month's rent. I believe strongly that what actually happens is, at the end of the three- or four- or one-year period, the tenant will come up and say, "Oh, my rent is paid for this last month; I will leave next month," but the next month comes and he never leaves. Most of the time you have to go to the courts.

I suggest to the committee to review the situation of the courts. It's costly. Special municipal committees should be created with the authority to settle the problem and see how things can be run without spending too much money through the courts. Plus, when you have a problem with the tenant sometimes they bother the next

tenant. If you have a small apartment house, 10 apartments, and you have nine or eight nice, good tenants there, they pay the rent even before the due date, but then you get one who comes and drinks all night and everything else, how do you cope with that? That's a big problem.

This is what I have to say and if you'd like any questions, I have time to answer.

**The Chair:** Thank you, sir. We've got about two and a half minutes per caucus, beginning with Mr Sergio.

**Mr Sergio:** Mr Kabitsis, thank you for coming down and making a presentation to our committee here. Are you a landlord?

**Mr Kabitsis:** Yes.

**Mr Sergio:** Small, medium, big?

**Mr Kabitsis:** I am, but the bank, the mortgage company, they drive you crazy. That's up to the federal government, of course. The government here, they never set up the amount of what you pay for interest, so we're not going to discuss that. That's Mr Paul Martin.

**Mr Sergio:** Yes, it takes too much time and I don't have too much time to ask many questions. Just one. You mentioned that we must have protection, and I think this is what we have heard from the majority of presenters who have come in front of our committee. As you know, there are a number of regulations within the existing legislation and statutes which the proposed legislation is willing to remove, if you will. This is the proposal here. Removing some of those protective laws that we have now, how do you feel we, as the government, are going to provide protection for, especially, those people who don't know the legislation as well as you do?

**Mr Kabitsis:** I don't. I just know a few things.

**Mr Sergio:** Enough to manage.

**Mr Kabitsis:** Enough to manage, and also, if you have a problem with the language — but I will proceed with your question. I said, again, the tenants must have protection regardless of what the landlords are doing, because actually they are in business.

**Mr Sergio:** Should we protect rent control as it is now, or should we have rent control and streamline the process?

**Mr Kabitsis:** In some cases there must be some type of removal. There are cases that you can do, but I don't know how the Legislature will proceed with something like that because the Landlord and Tenant Act is general. But the tenant who — I don't know what the number or the percentage in this province is; probably it would be about 30% or 40%. Actually, out of that number only a small minority are creating a problem. The majority, the others, are family people and if you put up the rents, if that goes to the free market and they have no protection, they will be unable, in my opinion, to pay.

**Mr Sergio:** As a landlord —

**The Chair:** Thank you, Mr Sergio.

**Mr Marchese:** Mr Kabitsis, welcome here. I'm a member of the NDP, Bob Rae was our leader, and you got to know Peterson as well. You should get to know —

**Mr Kabitsis:** I'm not a member of the NDP.

**Mr Marchese:** I didn't say that you are. I said I was.

**Mr Kabitsis:** I was a member of John Sewell's —



**Mr Marchese:** Right. You got to know Mr Peterson. You should also get to know Mr Mike Harris as well. I think it would be good —

**Mr Kabitsis:** I know Mr Mike. I know him, yes. We met a couple of times and I know a few of the gentlemen. I know the gentleman there, I think.

**Mr Marchese:** One of the points that you made earlier on is that you need some balance in the system. You pointed out that many people earn very little money in much of our sector of the population and that they need protection. Did I understand you correctly?

**Mr Kabitsis:** That's true.

**Mr Marchese:** And that public housing, Ontario Housing or non-profit housing or co-operative housing is something that you supported as something that people need. Is that correct?

**Mr Kabitsis:** I do.

**Mr Marchese:** It was important for me to just establish that. Then you went on to talk about some of the problems small landlords have, and I appreciate that because I think that some small landlords have problems, there's no doubt about that, with tenants, and some tenants have problems with some small landlords as well. That's also the case. I'm not sure what there is in this document that deals with some of these small problems, but one of the matters that you raised connected to this is that the courts are too expensive and maybe a different tribunal system that they're suggesting might be the answer. But we've heard a lot of lawyers saying that many of these problems are really solved by the registrar. Most of the cases are solved by the registrar himself or herself. That has not been your experience?

**Mr Kabitsis:** I have a few times had to evict some tenants, not because I wanted to, but they were not paying. I have to act very fast. I can do it in one day. I know the procedure. I go to the registrar, I register, I pay \$48, then I have the hearing and the judgement. Once I have the judgement, I have nothing. I have to go to the server. The server, of course, wants \$250 up front — you've got to pay in order to do that — and after a week, it takes a month. This procedure is very costly. That's number one.

Number two, sometimes in — they call them the slums, some of the properties, but even some better properties, either the public properties or they're run by the province of Ontario, they're with tenants that have created a lot of problems. My opinion is that the procedure of the courts must change. It must be faster for that particular reason. Some of the time, most of the time, they would come back with the money and say, "Here's my rent." You have to accept it, this is another case.

**Mr Parker:** Thank you very much for your presentation today. Actually, I want to pick up on the remarks you were just making on the subject of dispute resolution. That's one of the areas that's of particular interest to me. This committee has been receiving different advice from different people in different communities as we've travelled across the province on this issue. Some people favour the situation as it stands, some people favour a different arrangement. A number of people have favoured the recommendation that's in the proposal, which is to go to a tribunal. I just invite you further comments in this

regard. What has your experience been with the court system and what specific improvements do you see that can be made to the system?

**Mr Kabitsis:** If you act yourself, it's fast, if you do it the next day. Also, it's very tricky. If you do it weekly, then you can proceed in eight days, but if you do it monthly, you've got to take 21 days, according to the act. Well, this is the old act. Somebody gave it to me. Who is from the government here?

**Mr Marchese:** They're all there.

**Mr Kabitsis:** Mr McLean, the Speaker, is my friend. He passed it to me a few years ago, but it's not the new one. I forgot to go down on Bay Street to buy one.

Anyway, my experience is that for the average homeowner — I'm not speaking for the big landlord who has the lawyer who knows how to do it, I'm speaking for the small homeowner who has one or two apartments in his own house that for some reason he rents. Now, he has a problem. The majority of them have to contact a lawyer and that takes a minimum of three months. I say this: The majority of the tenants in this particular case go there and say, "Listen, I will pay you next week." So that's only one week after the first day of the month. The next week, he goes and there is no money there. He gets upset, angry and everything else, and then he contacts a lawyer, and an appointment would take another week. So he already lost a month. Then it takes another 29 days, and then it takes a minimum of two months plus the lawyer's expenses, and it's too expensive to go this direction. You've got to have a different system to speed up the situation.

**The Chair:** Okay, thank you, sir. Unfortunately, we're going to have to limit your time. Thank you, Mr Kabitsis. We do appreciate your input here this afternoon.

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BOB BABCOCK

**The Chair:** Our next presenter is Bob Babcock. Good afternoon, Mr Babcock. Welcome to our committee. The floor is yours, sir.

**Mr Bob Babcock:** Thank you for allowing me to speak to you this afternoon. My name is Bob Babcock. I'm a local property manager. I manage properties here in Peterborough for a variety of landlords and for a variety of financial institutions, everything from apartments, houses, condominiums to rooms in rooming-houses. We manage about 400 rental units in this general area. We also conduct business in Victoria and Haliburton counties.

My specialty is evicting tenants for landlords. I do about two thirds of the evictions that are done here locally. I'm here on behalf of my various clients, I'm here as an executive member of the Peterborough and District Landlord Association and I'm here as a taxpayer.

We have a very difficult situation here in Ontario, with two very different markets when it comes to the rental housing situation. Toronto is one of those markets, with a vacancy rate of eight tenths of 1%; the rest of Ontario is exactly the opposite. Thunder Bay has a vacancy rate of 6.4%; Ottawa, 3.8%; Peterborough is somewhere around 4%, according to CMHC. Here in Peterborough



and in most other centres in Ontario, landlords can't find suitable applicants or suitable tenants to fill up their units. They're forced to offer various incentives to prospective tenants, a free TV, three months' rent, and they still can't find suitable people to take over their units.

As I say, CMHC says Peterborough's vacancy rate is around 4%. I submit to you that it's closer to 8%, if not even 10%. The Peterborough and District Landlord Association has done surveys through the years at the same time CMHC does its surveys, that being each April and each October. Our results are always double what CMHC says the vacancy rate is. Now, as you're aware, CMHC only surveys the larger buildings, but here in Ontario 80% of rental buildings contain four or less units. These aren't included in the surveys, and those are the buildings that typically have a higher vacancy rate.

In addition, when CMHC does its phone surveys, most landlords, most rental offices, most superintendents, know better than to say to that telephone person that they have a vacancy, because if you say you have a vacancy, you're on the phone endlessly with questions like, "How much is the rent? Is heat included? Is hydro included? Is parking included, cable TV? How big is it? Is it broadloomed?" etc. The easy way, and you get used to this, is to say, "I have no vacancy."

What I'm submitting to you is that the vacancy rate is not even close to what CMHC says it is. Those are the numbers you're dealing with, of course, when you're looking at rent control, when you're looking at "Do we need more housing, do we need more this, more that?" but the figures aren't accurate.

This government has the option of eliminating rent controls totally — like the rest of Canada, which has no rent controls — and basically to let the free enterprise system prevail here. Everywhere but in Toronto it's the time to eliminate rent controls. Toronto, because of the low vacancy rate, is a different market, as I say. Unfortunately, everyone outside Toronto in this province has suffered for years because of rent controls, not only landlords but also tenants. Tenants are suffering because new housing is not being built. We've got the old rental stock of Ontario making up most of what is available out there to rent.

I suggest to this committee and to the Ministry of Municipal Affairs and Housing that it study the Thom commission reports. Stuart Thom was commissioned in the early to mid-1980s to study residential tenancies here in Ontario. He was commissioned to do so by the PC government of that time. When he gave his final report in 1987, the Liberal government of that day and Mr Curling as the housing minister basically put it on the shelf and, in my mind, ignored it.

His recommendation was to eliminate rent controls when the vacancy rates allowed it and let the free enterprise system govern the rental market — very basic capitalism. It appears that this government has chosen to take more of a middle-of-the-road approach. I like most of the proposals in the discussion paper. The concept of a landlord being able to set his own rent when a unit becomes vacant is an excellent idea, but really it's not needed here in Peterborough, because most units in Peterborough are not renting for what the legal maximum

rent is in the first place. With the downturn in the economy and the reduction in the values of properties, rents have also decreased. As I mentioned, we manage about 400 rental units. I would suggest on average our rents have decreased \$100 a month over the last five-year period of time, following the downturn in values and properties.

Further, the discussion paper allows landlords and tenants to negotiate increases over the guideline amount for capital improvements or new services, again a great idea. It's basic free enterprise.

Third, the discussion paper talks about the concept of rent controls not applying to new construction. Unfortunately that was part of the original rent control system when it came into being in 1975, and a subsequent government brought those post-1976 buildings under rent control. I submit to you that developers and landlords are not going to believe the legislation when it says they're not covered by rent control, because whether it's the PCs or some future government, if rent controls continue, those buildings are going to be under rent control in time as well. Again I suggest to you, let's get out of rent control and let free enterprise happen in this province.

As I mentioned, my specialty is evicting tenants. I want to talk to you about the Landlord and Tenant Act. We need help, big help in the Landlord and Tenant Act. The scales of justice are not balanced there. Over the last 20 years or so every government has made some changes to the Landlord and Tenant Act. I don't recall that one of those changes assisted landlords; every one of them was something new to help out the poor tenants.

When I say "poor tenants" and when I speak of tenants, keep in mind that tenants are my customers. These are the people I'm working for every day in providing them the best housing we can. But it's the government of Ontario that has hurt tenants the worst, by rent controls, by the Landlord and Tenant Act, because they're inhibiting how landlords do business. All these various changes to the Landlord and Tenant Act, with the pet issue and everything else, I submit to you have hurt tenants in the long run.

The discussion paper, in talking about the Landlord and Tenant Act, basically says that sublets will only be allowed to happen with the landlord's permission. That's a wonderful idea. That will return some property rights, hopefully, to landlords. I would suggest to you, though, that if landlords are allowed to withhold their permission to a sublet, with a reasonable cause, you've got to define what the reasonable causes might be. The current policy, as I understand it, of the Human Rights Commission here in Ontario is that a landlord should not be able to turn down any tenant if the tenant has the money.

I suggest to you that reasonable causes must be defined and should be the same considerations that any credit grantor might consider when he's looking at granting credit. Landlords are granting credit when they're looking at a prospective tenant. The considerations that credit grantors look at are known as the three Cs: the credit history of the prospective tenant, the capacity to pay rent of the prospective tenant and the character of the prospective tenant. Again we need the reasonable causes as to what a landlord should consider defined in the legislation.



The proposals in the discussion paper talk about abandonment of property. That's excellent. That's been a major problem for landlords for a lot of years: what to do with the junk that tenants leave behind. I'm glad to see it's finally being addressed.

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The issue of interest on the last month's rent and how and when it should be paid needs some attention. I would suggest to you that if the rent is being increased, that interest on the last month's rent should first be applied towards the last month's rent to bring it current with the rent. Paying 6% interest on the last month's rent is craziness. That might have been appropriate in 1969, when the Landlord and Tenant Act was written, but it's certainly not a good idea today. We're looking at guideline amounts of 2.8% that we're allowed to increase rents by, yet we have to pay tenants 6% interest on the last month's rent. A great investment would be to go out and deposit a whole bunch of money in last month's rent, because you're certainly not going to get 6% interest at a bank. That's got to be tied in with the prime rate. Whether it be the court rate or whatever it may be, that needs attention.

The discussion paper also talks about notice periods for tenancy terminations, that basically they will not change. I suggest to you some changes are necessary there, and one very important one is that a landlord should be allowed to apply to the courts for an order for possession after he has given the 60-day notice for possession. Under the current system, when a landlord gives the 60-day notice he has to wait that two-month period before he can go to the courts. In the situation where a landlord wants to live in the unit himself or if prospective purchasers want to buy the place to live in it themselves, you cause a lot of undue hardship by having to wait that two months to see if the tenant moves before you can take your next step of going to the court. Again I would suggest that's a notice period that should be changed.

The Landlord and Tenant Act says that a tenant cannot withhold rent from a landlord if there's a dispute. Unfortunately they do so. Any new system that's brought into place has to correct this and must fast-track the system.

The discussion paper speaks of improved ability to enforce legal rights. Landlords now have the right to show units or apartments, after a notice of termination has been given, to prospective tenants. I understand that's going to continue under the changes that are made. Unfortunately, if the sitting tenant says, "No, you can't come in here," there's no enforcement tool. You're looking at probably two months before you get a court order to show the unit to prospective tenants. So what we need is some meat, some enforcement tools in any changes that are made.

We need a system that delivers more with less red tape, and one that's quicker to resolve the issues. At this particular point in this region of Ontario the current system is working well unless you have a tenant who knows the system well. If the tenant knows the system, the system is a really slow one. Previous governments of Ontario have made a point of educating tenants on what their legal rights are. Unfortunately they've also taught them how to slow down the system and how to get free

rent from landlords. I've dealt with two different tenants in evicting them over the last couple of years. One tenant, over the 18-month period, I figure has paid one month's rent. I've evicted them six times in 18 months. Another couple in their 50s I think has paid three months' rent in the last two years to various landlords. They know how to play the game. They've been taught by the government how to play the game.

There hasn't been a government in my memory that has educated landlords on what their legal rights are. It's looked upon as the landlords being the people with all the money, that they can afford the fancy accountants, they can afford the fancy lawyers, but that's typically not the case. Your average landlord here in Ontario is a couple that has bought a home, a duplex, a fourplex as a retirement project, a retirement income scheme. The way the system has gone, you've taken that retirement package away from them. That's got to be improved upon.

The idea of tribunals being set up here in Ontario mediating landlord and tenant disputes probably can work. If tribunals are implemented, though, it's got to be done in such a way that it doesn't make it a further step along the way; it's got to be part of the process that's a quick process. In the current system the first step along the way after you apply to the courts is to set up a pre-trial. That's a mandatory first step. That's in front of a registrar, and that system works because he's mediating the situation between the landlord and the tenant, and I would suggest 95% of them are solved at that level. Again the key is, what we need is a quick and easy access to the system.

In dealing with appeals, again the system must be quick. I'm currently acting for a landlord from Peterborough who's a retired RCMP officer with a disability. He wanted possession of a lower unit of a duplex which he owns here in Peterborough because his disability does not allow him to climb stairs. We served for him the appropriate 60-day notice in April 1995 to his tenant. We had the pre-trial in July because the tenant didn't move at the end of June. In August 1995 we had the trial. The presiding judge, after hearing all the evidence, awarded us possession of the unit effective September 30, 1995. Shortly thereafter the tenant appealed the decision. He is not following up on the appeal, and if the landlord is lucky he might get into the place this November, well over a year and a half under the current system. Once that appeal goes in now, nothing can happen on it for a year if the appellant takes no further action. It just sits there for a year. That has got to be improved upon.

The discussion paper speaks of what appeals should be based on, whether it be simply a matter of law or a matter of law and fact. I would suggest to you it must be a matter of both law and fact. If you're dealing with simply an issue of law, you're far too restricting. You're taking the opportunity away of simply a landlord or tenant acting on their own if you take the issue of fact out of it, because if they forget to tell the judge an important part, it goes on to an appeal. If you can only deal with a matter of law, you've taken maybe that important fact out of the entire matter.

I would suggest a better way, rather than send it off to Divisional Court as it is now, is to send it back to the



Ontario Court (General Division) for a complete rehearing. Whether a tribunal is set up or whether you stick with the current system, that's the way it should be dealt with. Stay out of the Newmarket court. As the nice woman from the senior citizens' council mentioned, who's going to pay for somebody to go down to Newmarket? Who's going to pay for the lawyers involved? You've got to keep it simple.

In summary I suggest to you that rent controls do not make affordable housing. Free enterprise makes affordable housing. My suggestion is, get out of them; get out of rent controls.

**The Chair:** Thank you very much, Mr Babcock. We appreciate your input here this afternoon.

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### VOLUNTEERS AND INFORMATION PETERBOROUGH

**The Chair:** Our next presenter is Rosemary O'Donnell, manager of Volunteers and Information Peterborough.

**Ms Rosemary O'Donnell:** Good afternoon, honourable members of the committee. We are very pleased to have been offered an opportunity to provide information to this committee. I trust that the final legislation will reflect the experience of the many people you will hear from.

Volunteers and Information Peterborough is a non-profit agency. We operate a housing help program that has served Peterborough's city and county for the past seven years, and yes, sadly it is scheduled to close its doors tomorrow. I am not here today to discuss the closing of the centre except as it relates to this proposed legislation, although our agency is anxiously awaiting a meeting with you, Mr Stewart, to address this most urgent subject.

We are here instead to share with you our experience from listening to the problems of more than 15,000 landlords and tenants of identifying and trying to help solve these problems. After that many cases a certain wisdom emerges amid all the crisis, conflict and learning.

The board of directors of our agency has attempted to maintain an equilibrium of interest between landlord and tenant. They have attempted to remain unbiased by political or ideological agendas. This has not always been a popular policy, but it has facilitated an ongoing dialogue with both our client types. The interests of both are essential to the successful operation of a housing registry and to the housing market as a whole.

But make no mistake: There is an imbalance in this relationship. It is inherent and so self-evident that there is a risk of its being ignored. Landlords provide a service because it is a business pursuit. Even when it is operated honourably it is still an occupation. For tenants it is a matter of very basic need, sometimes even of life or death. Shelter, a roof over their heads and those of their children, housing is one of those primary needs that must be adequately met before secondary needs such as education and self-improvement can be attempted.

Our landlord clients are people with at most a few units and often just one or two. We served 1,000 of them in the past 12 months. Most of our 3,000 tenant clients are the poor, of which 33% are on social assistance; the

others just don't have enough income from their work or their pension to meet their meagre requirements. They are often in a housing crisis. The source of this crisis is things such as domestic abuse, illiteracy, language difficulties, being frail or elderly, being young and unprotected, having a chronic illness or a lifetime physical, developmental or psychiatric disability. But they are faced with a secondary crisis, one of affordability. These are the people of primary concern and in need of protection as new laws are considered. Most landlords and other tenants have the support systems, information and resources to defend themselves.

The first wisdom we have gained from our work that I would like to share with you today is that when faced with unfair practices, many tenants will not put up a fight. They simply do not have the skills, knowledge or means. Faced with an official eviction document that they may not understand, they will just move. They are not empowered to source out free help, nor do they have the strength to face down a more powerful adversary. Many will not know they can call an investigator when they are harassed. They are intimidated by bureaucracy. At least 50% of clients facing unfair eviction just move on. This practice is serious enough now. It will only worsen under a system that provides financial motivation for landlords to displace existing tenants and, I must also add, in a community with no housing help services. Tenants come to us as we have listings of affordable accommodation. Through this initial contact we are able to identify the issues and sometimes solve a problem and sometimes prevent the eviction.

One of the government's stated goals in the discussion paper is to protect tenants from unfair rent increases and evictions without just cause. Vacancy decontrol will allow landlords to raise rents to whatever they wish every time an apartment becomes vacant. Statistics Canada reports that renters with affordability problems are more transient. In the year before the last census, 37% of households with problems affording rent moved. While this is not surprising, it is not difficult to see how vacancy decontrol will intensify the problems of these renters. They will be on a never-ending treadmill from which there is no escape. They will move, because they have an affordability problem, into a system where the sky is the limit for market rents.

For six years we have carefully collected and monitored average rent statistics for this area from vacancies listed on our registry and from those advertised in local papers. I hope you will find time to study appendix A. It clearly demonstrates that low-income tenants in the Peterborough area are already paying from 53% to 78% of their income in rent. The exact amount depends on the size of the unit required. These are people, not statistics. They are moms, dads, sons, daughters, our neighbours and our friends. The units mentioned are not just commodities; they are people's homes.

Average rents in Peterborough are now between 15% and 76% higher than maximum shelter allowances. These are established by social assistance. These rates are just as important for the working poor as their income is often no higher than those on welfare. Rents are not going down in spite of the much touted rise in vacancy rates.



I would also like to point out that much of the current vacancy rate of 3.4% in Peterborough has been created by the economic inability of tenants to maintain their housing. The table in the appendix shows that between January and December 1995 the number of our clients paying more than 50% of their income to rent went from 15% in January of that year to a staggering 47% in November. This was just last year, and yes, it is related to the 22% cuts in social assistance — real people, real hardship. Of course the vacancy rate went up when they could no longer afford their housing. There are a lot of them in this area.

Tenants are also downsizing to housing that does not meet their needs. Families and singles are living in unsafe and substandard rooming-houses rather than apartments. This creates vacancies. Demand actually may have gone down, but I would suggest that it is based as much on inability to pay as it is on an actual oversupply in the marketplace. While a few renters may have purchased houses, I assure you this is not a choice for most of the tenants we serve.

Under our current rent control system, landlords have the option of lowering their rents to compensate for oversupply. You need only look at what is currently happening in communities such as Peterborough, with existing vacancy rates of over 3%, to see that it will not happen with the removal of rent controls. Our average rents are not any lower than they were when the vacancy rate was 1%. Our average rents are based on a database of more than 1,000 listings in the last year and show little or no change. Recently a local landlord actually advertised in the local paper a giveaway of free used T-shirts with every rental. So much for those huge incentives being offered because of the high vacancy rates in Peterborough. Lower rents would do more to rent units than cleaning out your closet.

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The vacancy decontrol provisions of the proposed legislation will result in higher rents, period. It is inevitable, since landlords are being handed not just the means to do so but the encouragement. Higher rents are the worst thing that could happen to our clients. They already suffer from the ravages of recession, unemployment or underemployment and the 22% cutbacks in social assistance and the loss of supportive services in the community. We believe it is the beginning of a downward spiral for these tenants from which some will never recover. The phrase "kicking them while they're down" comes to mind. Vacancy decontrol certainly will not meet the government's stated goal of protecting tenants from unfair rent increases and evictions without just cause.

Our current system tries to be fair to landlords in allowing capital repairs to be paid for through a rent increase sufficient to pay for the repair. Once it is paid for, it is no longer a part of the maximum rent calculation. It also requires that increases granted for this purpose are spent on repairs. This is accountability, and we say it is not feared by landlords operating fairly.

The second most common complaint we receive from tenants after affordability is disrepair. The discussion paper asserts that most landlords look after their units and that only occasionally do serious problems arise. While

assuredly there are many responsible landlords, I would like to assure this committee that on the front lines, we see that these problems are much more frequent than just occasional. The current system needs much improvement if it hopes to ensure tenants have well-maintained and safe homes. I would agree that the process is too lengthy. It also appears to have huge loopholes that those determined to do so can climb through.

In February this year we had a major rooming-house fire downtown that destroyed an old historic building. Twenty-eight tenants were living in this housing of last resort and were therefore rendered homeless following the disaster. The property was somewhat infamous in our city. It changed hands several times. In fact, two years ago we took Richard Franz, the Ministry of Housing policy adviser, on a tour of this same building to show an example of how bad things can get. City property standards officials made many sustained efforts to force this landlord to repair the premises. In the quagmire of the system nothing actually happened.

In early February a tenant contacted us and asked us to come and see the building again. We were appalled by the conditions that confronted us. Remember, it was February. There was no heat in 80% of the rooms. People were sick. They had bug bites. There were roaches and rats. Unused rooms were piled with garbage. Even the superintendent was injured, from a fall through a hole in the floor. The washrooms were beyond description, filthy, with no doors on the showers or toilet stalls and no locks on this room used by both males and females. Please imagine for a moment how degrading and frightening it would be to use this washroom.

Other problems in the building included no hot water, exposed wiring, broken walls, no lighting in long, dark hallways, no smoke alarms, door locks that didn't work and one usable kitchen with only one broken stove for 28 people. There was much, much more: sexual assault; drug pushing; mail, including benefit cheques, intercepted; no security, and therefore lots of people coming and going who had no reason to be there. It was a miracle that there was no loss of life on that cold February night, just one day after the mayor intervened and forced smoke detectors to be installed. While this is a very dramatic example of ongoing disrepair, it is by no means the only one. By the way, these tenants were all paying their rent. If they didn't, they were promptly thrown out on their ear.

We fully support the changes making violations of property standards an offence, and also the expanded search warrant powers.

Informal warnings should not be allowed, as they permit the possibility of pressure on the inspectors for selective application of the standards. We stress the absolute necessity of permitting municipalities to recover the costs of remedial work as taxes. However, any additional requirements of the inspectors, and therefore the municipality, must be accompanied by the financial resources to increase staff, otherwise the process is destined to fail as it becomes backlogged and therefore ignored.

I have included the above example of what can happen when the system lacks the power or resources to ensure the safety of tenants; and the ineffectiveness of a system permitting appeals and delays to go on indefinitely as conditions in a building worsen.



In conclusion, laws governing this landlord and tenant relationship, especially one entitled "tenant protection," must address the inherent need for protection of the most vulnerable, otherwise tenant protection is just rhetoric. Tenants must rent if they are to have shelter. This housing must be decent and secure. The law must make it so.

I cannot believe this government wishes to increase the suffering of the poor and the disabled. Providing incentives for landlords to get rid of tenants, taking away legislation that protects them and closing services that assist them will have long-term social costs for all Ontarians. I thank you for your time.

**The Chair:** Thank you. There's about a minute left, so there's no effective time for questioning. Did you have a final comment you wanted to make?

**Ms O'Donnell:** Just that I'm glad there's no more time for questions.

#### PETERBOROUGH COMMUNITY LEGAL CENTRE

**The Chair:** Our next presenter is Martha Macfie from the Peterborough Community Legal Centre. The floor is yours.

**Ms Martha Macfie:** I'd like to thank the committee for this opportunity to present a very brief submission from the legal centre. I'm aware that the Legal Clinics' Housing Issues Committee in Toronto has presented a lengthy brief to the committee, and I would like to say that the legal centre of course endorses that brief wholeheartedly.

The Peterborough Community Legal Centre is one of a number of legal centres across the province. It, like those other legal centres, receives its funding from the Ontario legal aid plan. The legal centre is governed by a volunteer board of directors.

The centre's two lawyers provide free legal advice and representation to low-income residents of Peterborough county in key areas of the law that are most relevant to low-income people. Not surprisingly, tenant protection legislation is one of those very key areas.

During the first 10 month of 1996, the centre has provided legal advice and representation to 1,133 tenants in Peterborough county, and the number of tenants receiving assistance from the legal centre has been steadily and dramatically increasing since the centre opened in early 1989. Since 1993, the centre has provided a duty counsel program to tenants on the first return date of their court application.

1520

In the central east region we have a rather unique system: landlord-tenant court applications. This is not a system that is in place elsewhere in the province. When a landlord or a tenant commences a court application, the first return date is before a local registrar who is empowered to pre-try the application. We attend as duty counsel on those pre-trial dates and provide assistance to tenants. In the first 10 months of 1996, we've provided duty counsel service to 99 tenants.

As Mr Babcock, who appeared earlier before the committee, indicated, by his calculations approximately

95% of the applications are resolved at that point in time. I had an opportunity to speak to Mr Babcock after his presentation and I asked him how many of his tenants whom he serves with court papers actually appear to dispute the application. He indicated that it is less than 30%. So I would put it to this committee that less than 30% of tenants attend to dispute, leaving 70% of tenants who do not dispute evictions by their landlords. Of that 30%, 95% of those applications are resolved at that pre-trial stage. This is not a cumbersome process by any stretch of the imagination.

In addition to the services that I've just indicated, the legal centre has also represented tenants on novel or test cases. For example, the centre represented several developmentally handicapped residents of a retirement home who were being summarily evicted by the owner of the home. By "summarily evicted" I don't mean the summary procedure of the Landlord and Tenant Act, I mean a letter telling those tenants to be out in very short order.

The legal centre commenced a charter challenge to the provisions of the Landlord and Tenant Act that excluded the protection of the act to our clients and the government of the day passed legislation to extend the protection of the act to our clients before that application could be heard. So I was sort of interested to hear the submission by the Empress Gardens earlier this afternoon, which alleged that there are no problems with retirement homes in Peterborough and that there is no need for the residents' rights legislation. It was a case in Peterborough that brought this whole issue to the attention of the government of the day and it was that case that was the impetus for the government to actually amend the legislation and to afford tenants in care homes with some protections.

While I am on the topic of the Empress Gardens presentation, I would like to point out to the committee that I think it was clearly acknowledged by the presenter that there are problem with local retirement homes and care homes. She acknowledged that only a few of those homes are members of the association, so industry self-regulation obviously is not going to work with respect to care homes.

In another test case that is currently ongoing, the legal centre is representing tenants who are challenging the constitutionality of the local utility commission's utility deposit policy which requires exorbitant deposits from tenants.

I'd like to provide the committee with some information about tenants in Peterborough county. I've set that information out in my written submission. I think the first important point to make is that there is a relatively low tenant population in Peterborough. By "relatively" I mean compared to Toronto. That's not too surprising. Statistics Canada census data reveal that the tenant population in the city of Peterborough has very specific characteristics. For example, 39% of disabled persons in the city are tenants, and that's as compared to only 32% of non-disabled individuals. Thirty-six per cent of women 65 years of age and older are tenants, in comparison to only 25% of men in the same category. Of the native population, 66% are tenants, as opposed to 33% of the general population. The next one is an astounding statistic: Sixty-



four per cent of female-led, lone-parent families are tenants as compared to only 20% of husband-wife-led families with children.

Sixty-one per cent of unattached persons in the city of Peterborough are tenants. Thirty-seven per cent of tenants in the city have incomes below the poverty line. This is in comparison to homeowners where it's only an 8% poverty level. By below the poverty line, I'm referring to the Statistics Canada poverty line of low-income cutoffs. Over 62% of the residents of the city of Peterborough who receive social assistance are tenants.

We can get a very clear picture of who tenants are. Tenants are members of our society who historically have suffered from discrimination disadvantage: women, children, the disabled, natives and so on. Actually, just to add to that point, it's unfortunate that we don't have up-to-date statistics because I am absolutely confident that those statistics I've just given you would be even more shocking in the wake of the 21.6% cuts that this government has inflicted on recipients of social assistance.

CMHC figures show that the city of Peterborough has a vacancy rate of 3.4%, and that's been talked about a fair bit here today. Contrary to what one might expect, this relatively high vacancy rate has not resulted in lower rents for low-income tenants in the city. The legal centre has direct experience in this. This has not resulted in lower rents for low-income tenants in the city. Rental rates continue to rise and the centre has been completely unsuccessful when it has tried to negotiate lower rents with landlords, despite the fact that many of these same landlords have high vacancy rates in their buildings. The typical response by landlords in Peterborough to the rate cuts in October 1995 has been to require guarantors or co-signers on leases, not to reduce rents.

I understand, in addition to the remarks I've made about the lack of affordable housing and the fact that rents are not declining in the face of the relatively high vacancy rates, there remains a long waiting list with our local housing authority. I believe it is approximately 350 people waiting for housing with the housing authority. I understand that actually fewer than 75 tenants obtained housing with the housing authority in 1995. So for those tenants who aren't in emergency or crisis situations, who aren't considered urgent situations and can't build up the points, those tenants are waiting up to four years to get into the housing authority. This isn't a glut of rental accommodation in Peterborough.

In a ministry survey, the percentage of income spent on housing among users of housing help centres in the Peterborough area showed that an unacceptably high percentage of a tenant's income is currently used for rent. This was already referred to by the presenter for the housing resource centre and I've simply provided the committee with the statistics that were provided by the housing resource centre.

Our own statistics show that Peterborough county households that receive general welfare assistance spent 73% of their total income on rent — 73%. Of those households, during the past year, 86% have run out of money to buy food to make a meal and 54% have gone without food for a day or more because of insufficient money to buy food. These households that have encoun-

tered these problems, that have run out of money, identify high housing costs, high rents, as being one of the main reasons for them having insufficient income.

**1530**

Ontario's present government has already taken steps that have reduced or will reduce the supply of affordable housing in Peterborough county. It has cancelled funding for private non-profit housing and, through the Land Use Planning and Protection Act, eliminated the ability for some homeowners to create accessory apartments. It has also reduced the supports necessary to tenants who are seeking affordable housing by eliminating, at the end of this month, funding for the Housing Resource Centre, which has been the only housing help agency in the Peterborough area.

The proposals contained in the government's discussion paper will further reduce affordable housing by eliminating the Rental Housing Protection Act controls on the conversion of residential rental properties. In Peterborough county, these conversions will be in the form of closure of mobile home park communities. This committee has already heard from mobile home park tenants today.

At the same time that the government has reduced the supply of affordable housing, it has caused an increased demand for such housing. We've already heard about the 21.6% cut to welfare assistance and family benefits allowances in October 1995. Since those cuts, the number of tenants forced to move because they could no longer afford their rent has increased steeply. The number of economic evictions — and by that we mean evictions by landlords for the sole reason that the tenant can no longer afford the rent — has increased by 62% in the first 10 months following the rate cuts.

Unfortunately, a high vacancy rate does not assure lower, more affordable rents. As noted above, rents in Peterborough continue to climb, even while rental costs consume an unacceptable percentage of tenants' incomes.

The government discussion paper proposes that unit rent controls be removed. The government states that the removal of unit rent controls will create an incentive for landlords to build new residential rental units and that this in turn will lead to more rental housing generally. The government has failed to provide even one study that depicts how this process will work. Furthermore, the report on which the government appears to be relying — and that's the Lampert report — provides nothing more than bald assertions.

The Peterborough experience clearly shows that relatively high availability of rental housing does not translate into affordable housing. A submission that was presented to this committee by David Hulchanski — it was called Rent De-Control in Ontario — I would submit, provides illumination of the Peterborough phenomena of relatively high vacancy rates but minimal low-rental housing. The legal centre accordingly adopts the findings in the Hulchanski submissions to this committee.

In the discussion paper, the government implicitly acknowledges that without unit rent controls landlords will have increased incentive for evicting tenants. The centre is certain that harassment and coercion of tenants will increase and is concerned, given the particularly



vulnerable nature of the tenant population in Peterborough which I set out earlier. Women, children, the disabled, natives, recipients of social assistance and the poor will be the victims if this government proceeds with the elimination of unit rent controls.

Tactics currently employed by unscrupulous landlords — of which there are a few in Peterborough; there are some good landlords, but unfortunately there are some bad landlords — that we predict will increase with the removal of unit rent controls include deliberate non-repair, intimidation and harassment and illegal lockouts. The proposal in the discussion paper for an anti-harassment enforcement unit, greater municipal powers and higher fines will, in our experience, be largely ineffective.

The mechanisms that the discussion paper sets out through which tenants are to secure and enforce their legal rights are generally not available to tenants in rural and small-town settings like Peterborough, the city of Peterborough and Peterborough county. Tenants generally have a small rental market to look to and very few landlords to look to. Should a tenant attempt any of the enforcement mechanisms proposed in the discussion paper, they could be blacklisted by landlords in Peterborough county. With a relatively small number of units available to choose from and very few landlords — some landlords have a large number of units — if a tenant is blacklisted in a rural community, then they suffer extreme hardship. They're in big trouble.

With respect to laying charges against landlords, very few such charges have been laid successfully in Peterborough by self-representing tenants. Those charges that have been successfully laid and prosecuted generally result in minimal fines. At the end of the day, the tenant has received no compensation from the landlord, and the landlord receives merely a slap on the wrist.

In terms of the proposal for greater municipal powers to curtail abuses by landlords, because the government appears to implicitly accept that there will be greater abuses by landlords under the elimination of rent controls, the centre has a great deal of experience with the failure of the city of Peterborough to pursue landlords who fail to repair and maintain their rental units. It is extremely difficult for a tenant to obtain an inspection of their unit. If an inspection is completed, it generally results in an informal conversation between the property standards inspector and the landlord. In extreme situations the landlord is sent a letter from the city, and in only very, very extreme cases the landlord receives a notice from the city. There have been very few orders issued by the city of Peterborough against local landlords, despite the fact that the city has an old, decaying, unmaintained rental housing stock. In the very rare instances where orders are issued, they are frequently not enforced.

In our view, lack of interest by municipal officials is only one reason, though, for the failure of property standards enforcement. Lack of funding also plays a major role. It is simply not reasonable for this government to expect municipalities to take on a larger role in this area following upon recent reductions in transfer payments from the province to the municipalities.

In one extreme instance where an unenforced order was in place, a tenant received a community startup

benefit to cover a last month's rent deposit, even though the welfare case worker had been informed by the property standards department that there was an outstanding order on the rental property and that the premises were unsafe. The tenant learned subsequently that his worker had known of the outstanding order at the time the community startup benefit was issued.

The discussion paper provides almost no details about how the enforcement unit will conduct investigations and initiate prosecutions. It does not provide details as to what sort of relief will be possible to the tenant, in what form the relief will be pursued and whether the tenant would complete the prosecution or simply initiate it.

In conclusion, we have very, very grave concerns that the proposed legislation has little to do with protecting tenants. In key areas, the proposals are very vague. We demand that there be further extensive public hearings respecting the bill once, and if, it is drafted.

**The Chair:** There's only about a minute or so left of your time, so it's not an effective time for any questions. Did you have any final statement you wanted to make?

**Ms Macfie:** Nothing.

**The Chair:** Okay. Thank you very much.

#### UNITED CITIZENS ORGANIZATION

**The Chair:** Our next presenters represent the United Citizens Organization, Ray Peters, the president, and John Taylor, the vice-president.

**Mr Ray Peters:** So that there is no doubt of our general position, we will make it clear at the outset that we are demanding that the government abandon its proposal to end rent control. The reason for the proposal is obviously that the government wants rents to go up. Although it is called "tenant protection," tenants and the general public have not been fooled. The claim of protection smacks of the evil protection rackets of past history and this proposal will result in similar hardships for the tenant population of approximately 3.5 million Ontario citizens.

Our United Citizens Organization has existed for 36 years and is the anti-poverty organization for this area. In 1995, we provided 2,291 occasions of service to 352 families or individuals, and these figures do not include the many hundreds of individuals and families who participated in our activities during that year.

For the Premier of Ontario to state that no tenant will have their rent go up any more under the government's proposed scheme than under the current system in June 1996 amounts to a shell game or confidence game of major proportions.

We view the proposals as the end of rent control, less repairs and maintenance, deteriorating relations between landlords and tenants and, ultimately, less affordable rental accommodation. In plain English, Ontario would be embarking from civilized human behaviour into the law of the jungle, and let the devil catch the hindmost.

1540

The statement of the Minister of Municipal Affairs and Housing says it all when he said his knowledge of housing fits on the head of a pin and leaves room for the Lord's Prayer. The Toronto Star also reported what he



said at a closed meeting of the landlords' lobby, which calls itself the Fair Rental Policy Organization. It quoted him as telling them, "My government is here to help you."

The government proposal means that when a new tenant moves into an apartment, landlords will be able to raise the rent to whatever they can get away with. The government's own study, the Lampert report, estimated that 25% of tenants move every year. It also estimated that over a five-year period about 70% of tenants move at least once. Within five years, the majority of apartments and rental accommodation will have had their rents decontrolled. These figures show what will happen to Ontario tenants. Also, the fight back of Ontario tenants against the class warfare against them will be a mighty one, since there are 3.5 million of them.

Higher rents affect human beings, not just the apartment. Those of us who are senior citizens have long memories, and all of us remember the horrible things that happened in Peterborough without effective rent control.

Let us use the figure of our present Rent Control Act of 2.8%, whereby the landlord can also apply for an extra 3% above that figure. This means a total of 5.8% may be obtained, which is far above the increases in wages or pensions of most tenants at the present time. Contrast this with the inhuman reduction of 21.6% of social assistance payments, and you have a pretty ugly picture of what is presently happening in Ontario. Decontrolled rents will bring the American nightmare to Ontario.

Let us for a moment recall what happened to rent controls after the end of the Second World War. By the late 1950s, most areas in Ontario had eliminated rent controls under the theory that supply and demand would make for fairness in rental costs. By the time the 1970s had arrived, the injustices, unfair rents, the freezing rooms, the cramped living quarters, the deaths of tenants, as well as the assaults on tenants and the lack of maintenance forced the Conservative government to introduce rent controls as an effective weapon for tenants to enforce their rights to accommodation, privacy, repairs etc.

Now a provincial government proposes to go back to those earlier days. No way will the people of Peterborough allow this to happen without a fight. We realize it would be an unfair fight in the sense that landlords in general have so many resources at their command. But 3.5 million tenants, their friends, relatives, neighbours, children and grandchildren will ultimately win at the ballot box, if not before.

The social justice beliefs of Ontario citizens will triumph, along with their allies, simply because so many landlords will take advantage of any lessening of controls.

Increases under the proposed legislation for capital repairs of up to 4% above the guideline and no limit as to how high rent increases can be for property taxes and utilities can mean increases up to an amount of 8% to 10% are possible. Presently, when a landlord applies for an above-guideline increase based on capital repairs, he must show that more than 2% has been spent on capital repairs, as 2% of the present 2.8% guideline is supposed to be for maintenance and capital repair work. We have also heard that the government is even considering that

tenants should pay for any landlord's decision to make luxury or unnecessary renovations.

Tenants will not, in the future, be able to apply for a rent decrease due to a reduction in the cost of heat, hydro or water. For example, a landlord could get an increase above the guideline in an extremely cold winter because of higher heating costs. Tenants, however, would not be able to apply for a rent reduction the following year, when the landlord's heating costs go down to normal levels.

The government has admitted their proposal will be an incentive to some landlords to harass their tenants. They are proposing an anti-harassment unit as a possible deterrent to landlords to deal with the harassment the proposal creates. What kind of nonsense is this that a new bureaucracy will be created? Let us again use plain talk to illustrate what will happen. A tenant who experiences this problem will fill out some type of form to try and force a landlord to let them stay in an apartment where their landlord wants to get rid of them so they can increase their rents.

Such a system is doomed to failure because many tenants are economically vulnerable and will immediately try and find other accommodation, and the exploiting landlords will have a field day. We realize some people will say this will not happen, but they must have little knowledge of the lengths some landlords will go to in order to increase rents.

Landlords in general have said they want to increase rents. If the government embarks on this rent decontrol scheme it will be seen as representing landlords, not tenants, but guess who has the most votes? Because of the lack of controls, the government does not see the necessity of keeping a rent registry. The rent registry has been one of the most effective ways for tenants to find out what is the legal rent on an apartment and, more importantly, what kinds of services are included in the rent. The matter of utility services such as electricity and water, as well as parking, are vital information that a tenant needs to know whether they are included in the rent.

It is true that once tenants move into an accommodation, they will be covered by the rent control guideline, but that is like locking the barn door after the horse has been stolen. The theft will have already occurred and the landlord will have received the government's blessing and a financial windfall for his stealing from the new tenant. What a great public relations windfall this will be for the government when other tenants, the news media and citizens generally expose this type of corruption.

It is realized that the government has trotted out that old Trojan Horse of possibly more rental housing resulting from this bonanza to landlords. Those who do not learn from history are bound to repeat the historical mistakes of previous governments. That was the old chestnut which was trotted out in the late 1950s to justify destroying rent controls. The Conservative government of the 1970s realized the colossal error they had made and introduced rent controls.

It is argued that this is mainly a problem for larger cities than Peterborough, but this is not the case. We have a very large and vulnerable tenant population in Peter-



borough. A large number of Peterborough tenants pay a very high percentage of their income for rent even now and cannot afford to pay more rent.

I have met with a large number of tenants in recent weeks, particularly the elderly, many of whom voted Conservative in the last election. They are frightened by what may happen to them. They have good reason to be afraid.

It should also be kept in mind that the relatively high cost of developing and building rental housing in most cities will mean that the private sector is still not likely to build rental housing on a large scale.

It is most unfair that the government proposal means the weapon of a rent freeze would be taken away due to property standards violations. This use of the rent freeze has been effective in large municipalities because it means a significant financial penalty each and every month that repairs are not completed.

Under this new government proposal, landlords will be able to apply for and receive above-guideline proposals even if there are standing property standards violations. While the government theory is that they will give additional powers to municipal property standards inspectors and will increase the maximum fines for property standards violations, there is a major problem. In many municipalities there is very little money put into property standards inspectors.

1550

While there has been an improvement in the city of Peterborough on property standards enforcement in recent years, that has not always been the case. We can all remember large headlines in the local newspaper, the Peterborough Examiner, about the lack of enforcement against landlords because there was insufficient staff to enforce the rules. The funding cuts to Peterborough are having a drastic effect on the city, and whether Peterborough can keep up its present enforcement procedures is a major question.

In general across the province, even an increase in maximum fines is unlikely to help much in maintenance because most courts only order small fines of a few hundred dollars to landlords who violate property standards.

The minister says he wants to make it easier to evict tenants. However, this causes great uncertainty among tenants when it is considered that landlord are going to receive a financial incentive to evict tenants so they can increase rents.

In conclusion, we simply state that the government should not proceed with its proposals which would end rent controls for the three and a half million tenants.

**Mr Marchese:** I thank you both for the very good presentation you've made and the concerns you state about what will happen to many tenants. I had several questions I wanted to ask the Peterborough Community Legal Centre and the volunteer information group. I'll ask you the same questions that I would have asked the others.

Mr Babcock described how this proposal really helps them out and then said it doesn't go far enough, and it should. He made a good case for why this proposal really isn't helping tenants but rather the landlords. He also made the point that rates are going down as a result of

high vacancy rates, and three community groups showed statistical information that contradicts that very clearly. It's interesting how we can use information depending on who's come here. He also said this proposal restores balance for the landlord because it's been tipped too much for the tenant. Can you comment on that?

**Mr Peters:** I sure can. The facts of the matter are that the people in Peterborough, particularly low-income people, are paying far more in rent than they ever possibly should be paying. I don't need to go into the details. They're too horrible to even refer to.

I go back to the other question about the process being so slow and so on. There may be cases where it is, but in fact the system can work if it's done properly.

**Mr Stewart:** Thank you for your presentation. I have a couple of questions. We've been in a number of places in Ontario where it is shown that the vacancy rate has gone up. In all cases they have not raised the rent near to the maximum they could, the 2%. In fact, in Peterborough we're just looking at last year, and the rents have come down. We feel that the market-driven might have an effect on this.

In all of your presentation you certainly haven't made any comment about the tenant's obligation or the tenant's accountability. Are you suggesting there should not be a level playing field? What happens to a landlord when they ransack his apartment or he has had dog faeces in it etc? Should there not be accountability on both sides if we're going to do some type of reform in this proposed legislation?

**Mr John Taylor:** Of course there should be, Mr Stewart, and I think in most cases there is. I'm not aware of landlords being refused the right to evict tenants under the circumstances that you mentioned. Do you have specific cases that you're aware of?

**Mr Stewart:** We saw a number of them in the paper, I read in the local Examiner of people who have had that problem, but we've heard as well in many communities that evicting those types of tenants is a long-drawn-out costly procedure. I guess those are dollars out of all of us taxpayers, which is what concerns me.

**Mr Taylor:** My view about that is that probably the procedure varies from one community to another. I understand in some communities it doesn't take a great length of time for this to happen.

**Mr Stewart:** Of course the courts are the courts.

**Mr Gerard Kennedy (York South):** I thank you and the previous group for the presentations. There are a couple of points that I think you effectively made: (1) This is not just a Toronto problem — there have been landlords trying to believe that this is driven by conditions in Toronto; and (2) the base conditions for tenants, and I'm going to ask you for a comment on this, are very poor. There is already something of a crisis out there for affordability, for the security of tenants.

I refer to some data the member opposite obviously didn't include in his summary: Despite the fact that vacancies went up, rental accommodation did not come down in price between 1990 and 1993, and it has tightened up in recent years; we have had some very small decreases — 0.4%, 0.2% — in one- and two-bedrooms, but bachelors have gone up 8% in the last



years as more and more people have been squeezed into smaller accommodation — 8% increases, and that's under a protected system.

Could you characterize for us what you think the base conditions are? We keep hearing from the government side some sense that right now conditions are sort of in favour of tenants and not fair to landlords.

**Mr Peters:** People who are in the housing field in terms of social agencies, people who have to work for government departments, people who are involved in tenant organizations, anti-poverty organizations and so on see a completely opposite picture. The picture we see is generally — there are exceptions, of course, to everything — that people do not have any sort of field day whatsoever. They have a very hard time with the question of affordability, the question of availability of housing and the question of problems with landlords. All those things are major problems.

I don't want to harp on it, but if the people at this table knew of the hardships that people are suffering from firsthand experience, they would never embark upon this type of thing. I say that because I have the experience with it. I experience it every week. I go to people's homes. They phone my home night and day with their problems. You can find out in any community in Ontario that the same type of thing goes on, and to make it worse is just unthinkable.

**The Chair:** Thank you very much, gentlemen. We appreciate your input this afternoon. We are now recessed until 5 o'clock.

*The committee recessed from 1558 to 1705.*

#### PETERBOROUGH AND DISTRICT HOME BUILDERS ASSOCIATION

**The Chair:** Our first presenters this afternoon are Maureen Shaw and Murray Davenport from the Peterborough and District Home Builders Association. Good afternoon and welcome. Should you allow time in your 20 minutes for any questions, they would begin with the government. The floor is yours.

**Mr Murray Davenport:** Thank you for the opportunity to speak to the standing committee on general government, with particular emphasis on the proposed rent control legislation. My name is Murray Davenport and I am the past president of the Peterborough and District Home Builders Association. With me today is Peterborough and District Home Builders Association staff member Maureen Shaw, the executive director. We wish to raise a few points related to the current rental accommodation as they relate to the city of Peterborough and the local district.

The Peterborough and District Home Builders Association represents over 70 member companies involved in the Peterborough region's residential construction industry. Our membership is made up of all disciplines involved in housing construction: builders, land developers, renovators, subtrades, suppliers, mortgage lenders, land surveyors, engineers, planners and lawyers.

We're pleased that the government of the day has recognized the need to overhaul the rent control system. The introduction of rent controls in 1975 and the tightening of rental legislation have severely diminished the

incentive for builders to expand the stock of rental housing in the city of Peterborough.

The last privately owned rental accommodation constructed in the city of Peterborough was built in 1991. Some of my contractors advise me that it might be the year 1990.

Marketplace rent control is the best rent control mechanism, in our view. The availability of rental accommodation on the market is currently dictating the cost of renting apartment space. The current vacancy rate provides sufficient choice for the tenant, which has driven the price of rental accommodation downwards, with no increase in the rental fee paid in the last three years even though rent control legislation permitted that increase.

The balance between the rights of the landlord versus the rights of the tenant has been lost in favour of tenant rights brought on by the successive legislative changes implemented by left-leaning governments led by William Davis, David Peterson and Robert Rae. Points related to that: The cost of upgrading and renovating an apartment unit must be recovered in rent increases to encourage property owners to provide quality living conditions for their tenants. Landlords cannot easily evict tenants from apartments without a large expense. Tenants forced to leave their apartment under the duress of an eviction notice will often trash the apartment, causing the landlord thousands of dollars' damage. The landlord must repair this damage before he can rent that space to new tenants. The cost of the repair cannot easily be recovered from the tenant without further legal expense.

Effective legislation must balance the rights of the landlord with the rights of the tenant to protect private property against vandalism. Tenants must respect the fact that they are renting in a privately owned building and be encouraged to demonstrate pride in their home.

The pay-direct system of making monthly rental payments on behalf of welfare recipients is seen by the industry as being much more effective than the current method of paying rents under the honour system. Any person who is generally short of cash to meet their financial obligation in today's society can be easily tempted to use the rent money to purchase goods and services rather than make their monthly rental payments.

The issues and concerns that cause the need for rent controls appear to originate in the Toronto region, in our view. Perhaps the legislation would be more effective if new legislation were created to address the issues created in that region only; leave the smaller population areas of the province external to Metropolitan Toronto out of the legislation. In our view, the government should fix the Toronto problem but leave the outer regions alone.

Cuts to the non-profit housing program last year were long overdue. This provincial government recognizes that the private sector can build housing much more efficiently than the government can and wants the residential construction industry to return to building rental apartment buildings. The construction of non-profit housing projects was reducing the demand for privately owned rental accommodation.

Our former minister of non-profit housing, Ms Gigantes, stated that 15% of all housing in Ontario was receiving subsidized housing. That translates into one



subsidized housing unit for every six housing units. Ms Gigantes was pushing her government to increase that percentage to 30% of all housing units in Ontario; in other words, one subsidized unit for every three housing units. I have a problem understanding how there is such a demand for a subsidized house for every three housing units that exist in Ontario now or ever. Healthy economies, in my view, do not depend on financial subsidies to create a better construction or development climate.

The proposals, in our mind, represent a transitional program which will ensure protection against large rent increases for tenants. We believe Ontario must move from this phased decontrol system to complete removal of rent controls. Such a signal would provide private investors with a greater degree of confidence that we are moving to a market-based system.

We support repealing the Rental Housing Protection Act. Repealing the act will serve as incentive to improve existing apartment stock through conversion to other, more appropriate uses. The RHPA restricted a building owner's ability to make decisions on renovation, recycling or creating an alternative use for rental buildings. The act ignored the natural life cycle of buildings, and extensive capital repairs were not feasible because of the capital cost restrictions imposed upon the landlord.

The proposed legislation put forward by the government will allow tenants to purchase their units in the event of conversion of a rental unit to condominiums. Those tenants who wish to remain as renters in the same building have the advantage of living in an upgraded building created through reserve funds set up for this purpose.

New rental projects constructed since the goods and services tax was introduced in 1991 pay an additional 7% on the full value of their project without rebates applicable. Landlords must pay GST on the input costs of a new building, such as management fees, maintenance contracts, supplies and so on, most of which are not subject to GST recovery. Unlike other businesses, residential landlords cannot collect a GST rebate on the building cost. GST must be borne by the landlord as an extra cost of operating that building. A new threat to the entire new housing industry is the possibility of harmonization of provincial taxes with the GST proposed by the federal government.

In conclusion, we support the phasing out of rent controls. Currently in Ontario, the rental stock is old. Our industry records show that 65% of the rental housing is more than 25 years old and requires an estimated \$10 billion in renovation costs to upgrade the existing buildings. By facilitating a new supply of privately owned rental accommodation, tenants will have a greater choice and landlords, through competition, will be compelled to keep rents at levels the market will bear. A well-functioning rental housing market is the best form of protection that tenants can have. Landlords in the city of Peterborough are forced to maintain their apartment buildings to retain tenants, as bad news spreads fast in a small city.

We are confident the public will be well served by a return to a market-based system. We're confident the government does not have to spend a fortune on social housing programs to house Ontarians.

**The Chair:** We've got about two and a half minutes per caucus.

**Mr Harry Danford (Hastings-Peterborough):** Thanks for your presentation, Mr Davenport. As we went across the province, we've certainly heard two different opinions, one on behalf of the tenants and one on behalf of the landlords. Certainly, the tenants are quick to point out that there's a lack of choice because there's not enough building going on to give them that opportunity, and of course from the landlords' side, the market doesn't allow for the investment to put in place that kind of accommodation.

Based on the fact that we're working on the present legislation that has been in place through a variety of means through the last few years, is it fair to say that it's not working, the present legislation, that it hasn't provided those needs?

**Mr Davenport:** We think there should be adjustments to the legislation of the past, yes.

**Mr Danford:** Based on some of the positions that have been taken, then, if it was based on a market system — a two-phased question, I guess — would the landlords build under a market system if it was changed, and could they provide a reasonable rate to the tenants to occupy those accommodations?

**Mr Davenport:** The situation in Peterborough as we know it today since 1990, when the last apartment buildings were built, the advertised rate of apartment rents was going up at the 2.8% or 1.5% that's currently there, but because of the economy, the rates that the landlord was getting were being discounted because the tenant would move to another building and there was available space. That left a climate where a builder, an investor, had an uncertain rate of return on his investment, so there was no building being constructed. At the same time, that landlord was competing with newer non-profit housing projects, which we are all paying for, and that also caused a lower rate of return on his investment.

To turn all of that around, the economy improving is one thing, but having government get out of the rental business makes it more feasible for a builder who's going to borrow or invest something in the order of \$1 million to \$2 million in Peterborough's terms. If he's going to make that decision, we have to get that balance, the feeling that the landlord wants to deal with tenants on a regular basis. As the legislation is prepared today, there is an imbalance between the landlord's and the tenant's rights.

**The Chair:** We have to go on to Mr Curling.

**Mr Curling:** Mr Davenport, thank you for your presentation. You haven't said anything different than what all the home builders' associations have said. It seems to me the bottom line is that rent control works for you folks because, as you said, the legal maximum rents that can be charged are not being charged because the market seemed to take care of it, the market meaning that many people are not getting the amount of income to access the legal maximum rents, so you guys, the landlords, have dropped the price of the unit down so people — you have to sell that unit for less money. It seems to me from that point of view, rent control kind of worked.

One of the things I'd like you to address though, is on the comments. Number 4, you said, "The pay-direct



system of making monthly rental payments on behalf of welfare recipients is much more effective than the current method of paying rents under the honour system." Could you just comment on this for me? If you were working, say, for instance, at Canadian Tire and you're renting from somewhere, would it be appropriate that the landlord approach Canadian Tire and say to them, "Will you now pass the money over so that he pays rent"? Would that be appropriate, do you feel?

1720

**Mr Davenport:** If the tenant is not paying his rent, then it is possible for the landlord to make other approaches, or evict the person is one way.

If you look at the overall apartment rental system, as I understand it, a private investor is not going to evaluate his various tenants based on anything but their ability to pay. The move away from the direct pay for welfare recipients to the honour system, payment by welfare recipients, has resulted in landlords making a choice of which tenant they're going to take. They're going through a screening process to evaluate the person they're going to take and as a private investor they have to make that choice. They look for the person who is most probable to make that payment.

**Mr Marchese:** Mr Davenport, we've heard many deputations this morning where they really say that the balance has never been in favour of the tenant and this proposal serves nothing but the landlord in terms of almost every proposal that's here, every recommendation that's here. As far as they're concerned, that balance is going to hurt tenants.

One of the things landlords talk about is that if you have high vacancy rates — and Mr Babcock was here this morning saying that the vacancy rates are well beyond 3.5%. He estimates they're about 8%. You argue, I would think, like him, that if you have high vacancy rates, that's good protection for the tenant because the rates are likely to go down. Is that correct?

**Mr Davenport:** It creates competition in the community, that's correct.

**Mr Marchese:** Rates are likely to go down because there are high vacancy rates.

**Mr Davenport:** The rates are being discounted to the tenant.

**Mr Marchese:** Right. The Peterborough Community Legal Centre, Volunteers and Information Peterborough and the Peterborough Social Planning Council have documented very well the fact that rents have been going up, if anything, in an environment where there's a high vacancy rate. Do you have any evidence to show otherwise?

**Mr Davenport:** In preparing this presentation, I have researched with the various landlords I have direct involvement with, and each one of them has indicated that there is a discounting of rents going on in the city of Peterborough to hold the tenants, otherwise the tenant moves from this building to that building to obtain a better rent. It depends on what you're looking at. Yes, the published rent rate has gone up with the allowed increases provided under rent controls, but what's being paid by the tenant is not necessarily the published rate.

**The Chair:** Thank you, Mr Davenport. We do appreciate your input this afternoon.

## SOCIAL HOUSING CONTACT GROUP OF PETERBOROUGH

**The Chair:** Our next presenter is from the Social Housing Contact Group of Peterborough, John Martyn and Cheryl Procter. Good afternoon and welcome. Should you allow some time for questions in your 20 minutes, they would begin with the Liberals. The floor is yours.

**Mr John Martyn:** Good evening. Welcome back to Peterborough, Mr Carroll.

My name is John Martyn. I'm chair of Kairos Non-Profit Housing of Peterborough. Today, I'm speaking on behalf of the Social Housing Contact Group of Peterborough. We are the administrators, managers and volunteer board members of several social housing projects. We meet occasionally to discuss management and maintenance issues. My comments are a combination of the views of those members that we were able to gather through the summer and my own opinions based on almost 10 years of volunteer work in the social housing sector. In addition to this brief, there's a response attached to the package from one other member of our group.

To provide a context for our responses, I have asked Mrs Cheryl Procter, a tenant in Kairos Non-Profit Housing, to briefly tell you about her experiences as a tenant in both the private and non-profit sectors.

**Mrs Cheryl Procter:** I've lived in geared-to-income housing since January 1996. For the first time in nine years I've had affordable housing. Before this, I had an apartment and was paying \$650 per month, plus heat and hydro. Things were tight. I was above my amount allowed for housing, but I was managing. I had a part-time job and was assisted by social services. Things were slow and I was not needed at my job and the business ended up being sold.

Then in November the cutbacks came and I could no longer keep my apartment. I had a very good man for a landlord, but he had a mortgage to pay and was sorry, but he could not lower the rent. I ended up storing my furniture in his garage and moving myself and my two girls into a boarding-house situation. It was all that I could find that was within the amount I was allowed to pay from my social services cheque.

I registered with the Housing Resource Centre and they helped me to apply to different geared-to-income organizations. I was fortunate enough to get accepted in Kairos Non-Profit Housing. It was the best break my children and I have ever had. For the first time in nine years, since my marital breakup, I have affordable housing. There's like a great burden has been lifted. I can afford for my children to be involved in a few more things and lead a more normal lifestyle. For once, I don't have to worry all the time about how we will get through the month or who I will have to put off paying in order to pay the rent and buy groceries.

In my opinion, there's a great need for affordable housing in Peterborough. I know of many people on waiting lists for geared-to-income housing and they are really struggling to get by. I feel if rent controls are lifted in Peterborough, things can only get worse. I know there are a lot of places for rent advertised in the local papers,



but most of them are out of reach for people on low income or social assistance. I don't know the statistics, but I feel that a high percentage of the renters in Peterborough are on fixed or low incomes. If rents were to increase any more, it is my feeling that more and more people will become homeless. Thank you.

**Mr Martyn:** Mrs Procter has attached to her document a breakdown of the before-and-after impact of the cuts in her own particular situation and they're there for your information. Thanks, Cheryl.

Access to affordable, safe, well-maintained housing is a right of all people. In fact, a community which does not ensure that all its people are housed in decent, secure accommodation is an unhealthy community. Those of us who have worked or visited the slums and ghettos of cities in different parts of the world know the unhealthy consequences of housing and land policies which show inadequate or indifferent concern for people living in poverty.

We agree that indeed there is trouble in the Ontario rental housing market. We also agree that landlords are entitled to a fair rent in exchange for clean, safe, well-maintained accommodation. We also know, perhaps better than those in the private sector, that just as some tenants are difficult to deal with, so too are some landlords.

The trouble in the rental housing market is a direct consequence of poverty and a growing sense of economic uncertainty. We have an affordability problem that is becoming increasingly serious. More and more people are either unemployed or moving in and out of short-term, low-paying jobs, stretching inadequate incomes further and further. Without access to affordable housing and deprived of the support of a well-maintained social safety net Ontario citizens are suffering the social and physical ills that accompany the daily stress of providing simple food and basic shelter. As Colin Vaughan wrote in the *Globe and Mail* on August 26, "Mike Harris should listen to these experienced fellow-travellers before he sparks a real housing crisis."

Consider this analogy. As the tragedy of the Westray mine disaster makes so clear, one of the great dangers of coal mining is the existence of poisonous underground gases. In the early days of the industrial revolution, to check for danger before entering the mines, coal miners in England used to release canaries into the shafts. If the canaries died from asphyxiation, the miners knew that the environment was unsafe.

Many in Ontario seem to regard poor people as expendable as those canaries. The emerging attitude seems to be that we can experiment with new social policies by depriving the marginalized, the abused, the unemployed, the poor and the physically and mentally ill of the sustenance needed to survive. If the canaries do not survive, we will know it is dangerous for the rest of us. But the canaries must die first. Their deaths are the early warnings that such actions threaten the health of a community.

Consider these few Peterborough examples. Some of these have been mentioned already today, so I'll just call your attention to one or two.

The volunteers of a small non-profit housing project sign a binding, legal performance agreement with one government, spend 18 months developing their concept as

volunteers and are ordered by telephone by another government to close down the project and pay all bills within 48 hours and reduce the availability of assisted housing by 20 units.

A group of seniors I have spoken with recently approached the rent review board to complain about their landlord's failure to maintain their building; they are ignored by both the board and the landlord.

There are other examples, but I'll move on.

#### 1730

We in the Social Housing Contact Group examined *New Directions* against the context of this local picture, a picture with which, because of our daily experience, we're only too familiar. We offer the following comments on several sections of the document.

The document seems to be based on assumptions of an ability to pay and the likelihood of increases in incomes that are totally out of sync with the reality of most renters in Peterborough. It seems to be a policy for another economic climate than the current one.

For example, if we consider 30% of income, which is the Economic Council of Canada's benchmark figure, as a high but reasonable benchmark for rent, a family requiring a three-bedroom apartment would need a net income of \$2,400 per month to afford a rent of \$710. This would mean an after-tax annual income of \$28,000. To find such an apartment close to schools and reasonable to heat would be a challenge. Furthermore, in the present mortgage climate and buyer's market, families who could afford such rents would most likely purchase a home. For low-income families such a rent is simply not an option.

We do not believe it is possible for a developer to build housing that a growing number of people are able to rent. The supposed incentives offered in *New Directions* will not in themselves be sufficient. The government's intention to remove itself from the housing business, the loss of additional assisted housing and the likelihood of the removal of rent supplements, combined with the unwillingness of the private sector to build housing for low-income people, will create a housing crisis. Furthermore, as has been pointed out today several times, existing housing stock in Peterborough which might be developed is aging, increasing the costs of maintenance and rehabilitation.

An enlightened, healthy community learns to balance the capacities of three sectors: government, business and industry and, increasingly, volunteers and non-profit organizations. These three sectors, working together, can help a community meet its social obligations. However, in Ontario the capacities of the third sector, volunteers and non-profit organizations, are being marginalized by all levels of government except when it is convenient to acknowledge their existence. Little effort is made to value the economic and social capital this community resource could bring to the solution of such complex issues as ensuring a mix of housing types so that all may be housed appropriately.

The level of government in the best position to lead its community is the local municipality. However, in Ontario, such leadership, despite some excellent work in developing a housing policy and an admirable recent history



of collaboration, seems to have been abandoned. It is not a matter of left or right, either/or, them and us; it is a matter of all of us, respecting all, seeking a balance of interests to ensure the health of all. We are not strangers to one another but partners in the common good.

A couple of examples on the issue of vacancy decontrol:

A low-paid worker has to move because of a job opportunity, has to renegotiate a rent, moves into a low vacancy area and is faced with a decontrolled climate. We're confident the landlords will not allow the status quo to exist.

I'll skip the next one because it's been referred to already, but those of you who have students who have, for example, enrolled in a co-op education program at a university will recognize the third one. Such programs require students to move two or three times a year. If they're in an uncontrolled or decontrolled environment, that means they're renegotiating their rent increasingly. In addition to the increasing cost of tuitions, this becomes a major problem because co-op students have to move into other areas beyond the catchment area of the university they're attending.

In our social housing sector we've noticed a decline in the mobility rates since the announcement of these rent control hearings. We expect that rents at the low end of the market will increase at a higher rate than those at the high end. Based on stories that people have told us of strategies that some landlords use who rely heavily on tenants on social assistance for income, we will hear of increases in harassments.

Social assistance rates and incomes will either remain the same or, as is more likely, decrease. Rents, without controls, will inevitably rise. Low-income people will be forced to seek less and less suitable housing; landlords will pay less and less attention to maintenance and safety. Furthermore, the suggestion that sitting tenants would be interested in purchasing rented units that have been converted into condominiums is unrealistic. People who can afford to purchase will more likely purchase homes. In the current economic climate, we do not believe decontrol will accomplish anything other than to worsen an already critical situation. This will be especially true if the implementation of regulatory systems is not vested in the local municipality, who conscientiously observe provincially imposed standards and regulations.

The next comments concern landlord and tenant relations. I've grouped several together.

Although the document is subtitled Tenant Protection Legislation, it's our opinion that, if ever brought into legislation, these proposals will give the landlords the upper hand in this relationship; it will not be a balance. We do recognize that the current situation does seem to favour some tenants. However, individual tenants, especially those on low incomes, are at a disadvantage when it comes to dealing with many landlords. If I can comment on this, in 10 years in the social housing sector, our little project, which is hardly worth a bead of sweat on the minister's brow, has provided accommodation for over 50 families. In that time, in those 10 years, I think we've had three people whom we've had to seriously consider evicting because of arrears.

Proposals regarding maintenance and dispute resolution systems are particularly worrisome. Although the proposals seem to be tough on standards, they are hollow if not supported by a municipality willing to enforce its own standards and a sufficient number of property standards officers with the resources necessary to act quickly.

I'm going to conclude, and you can read the rest. I've made some suggestions because the paper calls for suggestions around the whole complexity of evictions and so on. But I would like to conclude, first of all, by saying that I think a number of us, as you've commented, are coming from the social housing sector in one way or another today, and a lot of us are doing it out of a sense of futility. We do not believe this panel is really prepared to listen, and some of the decisions around the legislation have already been made. On the other hand, we did not want to miss the opportunity to lay our case before the public.

The issue, as we see it, is affordability. Many people, as Cheryl has pointed out, are just unable to pay even the minimum rates now being advertised. The removal of rent controls in a weak system of regulatory enforcement by municipalities will inevitably lead to higher rents, more accusations of harassment, an increase in evictions, more impoverished households, costly settlement procedures, a gradual slide to slums and ghettos, homelessness and all the attendant social ills. We will become an uncivil society.

New Directions must be sent back for further consideration and left off the upcoming session of the provincial Legislature. How many canaries must die before this government understands that the housing atmosphere is poisonous to low-income people?

**The Chair:** There's only about a minute and a half left, so there's no effective time for questions. Did you have a final comment that you wanted to make?

**Mr Martyn:** Just to repeat again what I said. The most positive thing I can say, speaking from the volunteer sector, and I'm involved in a number of volunteer organizations around the city: On one hand there's the danger of volunteer exhaustion and burnout; on the other hand, there is a sense that governments at no level really value the volunteer component and the difference the volunteer sector could make, especially those of us involved in non-profit work, to an overall housing policy, especially to serve the needs of people who are in desperate need of housing.

**The Chair:** Thank you, Mr Martyn and Mrs Procter.

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#### VICTORIA COUNTY ACCESS TO PERMANENT HOUSING COMMITTEE

**The Chair:** Our next presenter is Zita Devan, a committee member for the Victoria County Access to Permanent Housing Committee. Good evening. Welcome to our committee. Should you allow time for questions in your 20 minutes, they would begin with the Liberals. The floor is yours.

**Mrs Zita Devan:** Good evening. I speak to you tonight as a member and founding chair of the Victoria County Access to Permanent Housing Committee. I am



a strong activist for housing as a right and have been so for the last 10 years. I regard housing as a basic need, a need that must be filled in order to become a contributing citizen of our communities. I am also chair of the Victoria-Haliburton Housing Authority and the founding chair of A Place Called Home, which is transitional housing for our homeless. I am also a landlord.

I doubt if I'm going to say anything tonight that you haven't already heard, but I'm going to say it anyway.

Yours is not an easy task. You have this new tenant protection act for discussion, we're told, and I'm encouraged when I read quotes from Mr Harris when he says: "We want to bring in a rent control program...that will truly protect tenants and give them lower rents. We will replace nothing until we have a superior plan in place proven to work better." So you sit and listen and hopefully go away with more information and knowledge so that indeed we can all benefit from his superior plan.

My greatest concern is the risk of decreasing our stock of affordable housing. With numbers in Victoria-Haliburton as high as 319 on a waiting list for subsidized housing, many with points rating over 120, I'm working towards ways to increase our stock of affordable housing, not decrease it.

What is affordable housing? Well, it is clearly in the eyes of the beholder. Affordable is a different dollar range for each income bracket. We all have to purchase clothing for ourselves; however, there is K mart and there is Holt Renfrew. To the buyer, these items are affordable, and I guess a perfect world would include a stock of affordable housing for all.

I am concerned that by allowing landlords to increase rent on vacant apartments, we will soon have little affordable housing for the low-income earner. Some may say that the market will govern the cost of apartments in each community. I would challenge that that would not be the case in communities like ours where vacancy rates are low. Those who would lose out would be the low-income tenants.

There is too much room for the possibility of some tenants to be forced from their homes by greedy landlords. Your proposal anticipates that there will be landlord harassment. You have created an anti-harassment clause which fines for tenant harassment. I trust no one in this room is naïve enough to believe that an anti-harassment clause would prevent harassment from happening.

Some say rent control has deterred investors from building new housing stock, and there may be some truth to this. However, I would challenge that the changes that are being proposed in the tenant protection legislation will do little to encourage investors but will surely decrease each community's stock of affordable housing.

Decontrolling hasn't encouraged investors in British Columbia or any of the US states, and there is no reason to believe Ontario would be any different. The development industry itself has spelled out the reasons why decontrolling will not result in an increase in new apartments. The industry is asking for reduced development charges and GST, including streamlining the regulations. It also recommends eliminating the property tax discrimination against apartments.

I would not argue that a complete overhaul of the current system is needed, but I have difficulty seeing that the new tenant protection package will work for tenants, landlords and all Ontario taxpayers.

Why was rent control first introduced in Ontario? The Conservative government under Bill Davis brought it into effect in 1975. It was about people: assurance that safe, affordable housing would be available to all. Housing, like health care and education, should be a right of all Canadians. The Rent Control Act put guidelines in place so that the rich could not exploit the poor within the housing market.

We need to remember who rents accommodation. It is mostly those who are unable to afford to purchase their own home: our low- and fixed-income earners, our pensioners and our unemployed. It is my experience that tells you that those who choose to rent over owning their own homes are those who would not be as greatly affected by a rent increase.

In these difficult economic times, with unemployment high and job opportunities small, this is no time to bring down yet another policy that will greatly affect our low-income earners. I realize your ministry is centred around housing; however, you cannot be blind to the impact other ministry policies have had on the same target group you serve. I am speaking about the changes within the Ministry of Community and Social Services. This group has endured a 22% decrease in their benefits. They are struggling to survive. Many have been evicted due to rent arrears. It is these individuals who will be out there looking for affordable housing, only to find that the rent on the vacant apartment has been increased out of their reach. Do you have some answers I'm not aware of where these individuals can access accommodation?

The decisions your ministry will make are far-reaching. Rent control is only one of the issues the Ministry of Housing is dealing with. I urge you to be keenly aware that a change in one area of housing does not stand alone. It is a house of cards, or, better, a balancing scale. The changes in policy will affect other areas, and in the end it's all about people — not policies but people. It is people who are affected. It is people who will be affected with the sale of scattered units within the Ontario Housing Corp. It is people who will be affected with the cancellation of rent supplement units. It is people who will be affected with the stricter adherence to market and rent-geared-to-income units with the non-profit portfolio. All these changes have already reduced the accessibility of affordable housing for our low-income earners.

Too much has been taken away too fast, and so far I have seen no alternatives that will come close to addressing the need. There must be a way to address the need for affordable housing and still acknowledge the needs of the landlords. There must be an alternative to supporting the needs of the landlords. Increasing rent on those who are already struggling may be the course of least resistance, but in the end, what kind of community will we have? A community where only the well-off will have affordable housing and the poor will be left with what is left, if anything.

There is a price to pay when we do not provide access to safe housing. Your ministry has stated that it wants to



get out of the housing business. It's about people, not bricks and mortar. I agree this is about people. We have an opportunity to be leaders in developing a package that will work for tenants, landlords and Ontario taxpayers.

I'd like to thank you for your time.

**The Chair:** We have about three and a half minutes per caucus for questions, beginning with Mr Curling.

**Mr Curling:** I must commend you on your presentation, because you are right to the point. These are the dangers which we feel. We have been around a portion of the province and people have come out and told us this exactly, those who are concerned about losing their homes. They have also tried to interpret the New Directions, tenant protection, as to whether this is a protection or not.

I want to talk about Peterborough a little bit, because most people are saying this is a Toronto issue and there are no concerns about tenants here. The vacancy rate here is almost 6%, I understand.

**Mrs Devan:** I'm from Lindsay, so I don't know what's going on in Peterborough.

**Mr Curling:** I beg your pardon?

**Mrs Devan:** I'm from Lindsay, Ontario, which is about a half-hour drive from here.

**Mr Curling:** It's a good opportunity to ask you about Lindsay then. I'm sure there are concerns about tenants in Lindsay too.

**Mrs Devan:** Yes.

**Mr Curling:** Even though landlords are asking for legal maximum rent and they're saying they're not getting it, it comes down to two basic things: affordability and availability. Those who have a lower income are not able to afford it, and those units are not available. Is that the same situation, especially with the fact that the government has reduced people on welfare, has cut them by 22% or 21.6%? Is that the same situation in Lindsay?  
1750

**Mrs Devan:** Yes. We have a very low vacancy rate. Our community supports a community college with over 2,000 students who, about 95% of them, come from outside the area because we are a natural resources college. That places a huge demand on our affordable housing stock. In most cases the students come with money, which necessarily the working poor don't have, so it is very tight.

There have been some articles that have shown that Lindsay's vacancy rate is higher than it is, but it depends on the time of the year that you take it. For the most part it's very low, it's very critical. We have nowhere for people to go.

**Mr Curling:** Speaking of students, as you said, they seem to be the most vulnerable because of this decontrol or this hacking of rent control by this government that if the unit is vacant, it does not come under the rent control guidelines any more. I presume the cost not only of tuition fees, which will be affecting students too, but user fees for library etc — that this policy or this direction in which they are going will play havoc with the students also.

**Mrs Devan:** I would imagine so. I have to say that most of my energy has been with the permanent residents of Victoria county, but as a parent who has had three children in post-secondary education, yes, I would agree.

**Mr Marchese:** Mrs Devan, it is always heartening to listen to people from across Ontario who take on the concerns of people who are more vulnerable in society, who have a sense of public interest and a sense of public good and common good, and a sense of how communities are affected by policies, and then come forward to talk about that. It is heartening, for me at least.

Secondly, your concern around the risk of decreasing our stock of affordable housing is very real. Mr Martyn touched on that and explained, in great part, how that will happen. We may have some high vacancy rates in some areas of Ontario, but it won't be like that for long, and for those who can't afford it, it will become an increasing problem. We're witnessing it right now. We don't have to wait until the future.

Mr Martyn says the government's intention to remove itself from the housing business is one concern: "the loss of additional assisted housing and the likelihood of the removal of rent supplements, combined with the unwillingness of the private sector to build housing for low-income people." Add to that the desire by this government to repeal or get rid of the Rental Housing Protection Act, which would allow buildings to be converted to condominiums and the like. Combine that with another report that Mr Martyn made that non-profit housing projects are ordered to return some of their units to market rents and leave them vacant, if necessary, for a while.

All of that lends credibility to your fears that we will have a decreasing stock of affordable housing, so you raise a very legitimate concern that I'm not sure the other members are picking up.

**Mrs Devan:** I'm quite sure we agree on most things I said.

**Mr Marchese:** Could you comment, as a last question, on the issue of the market. We had a Mr Babcock who would like to have the whole system decontrolled. He loved this proposal. He thinks it's in the right direction, but it's not going far enough. Then he says that the market should take care of people's housing needs; the government should get out of that business.

What is your view about what would happen to those who are most vulnerable, who are seniors, to a great extent students, people with mental illness, people with disabilities and on and on? What would happen to that particular group if you allow the market to take care of our housing needs?

**Mrs Devan:** Certainly the market isn't going to take care of our housing needs. The market is going to be set and those who can afford to pay will be housed. Those who have lost their jobs, those who are on social assistance — there's not enough money in that pot of money to will sustain a market rent.

I don't have any answers. This is a very huge task you've undertaken, but there needs to be a way that you don't place the tenant against the landlord or the landlord against the tenant. The landlords had some very good, some very valid statements that they've made, and there need to be ways to encourage them to build, to create, to provide safe accommodation, without doing it on the backs of the tenant.



**Mr Ernie Hardeman (Oxford):** Thank you, Mrs Devan, for your presentation. I notice in the presentation that you mention that you are a landlord.

**Mrs Devan:** Yes.

**Mr Hardeman:** Is that over and above the fact that you're on the board —

**Mrs Devan:** Yes. It's only a duplex, though.

**Mr Hardeman:** We've had considerable discussion, particularly here in Peterborough and all areas where we have a high vacancy rate, about the difference between allowable market rent and the actual rent that landlords are getting. In your case, where you're a landlord and you have a lower vacancy rate, are you presently charging the allowable market rent in your units?

**Mrs Devan:** Am I presently charging it? Yes, I am.

**Mr Hardeman:** You're right up to the —

**Mrs Devan:** And we have a very low vacancy rate.

**Mr Hardeman:** A very low vacancy rate.

**Mrs Devan:** Yes.

**Mr Hardeman:** So there is a connection charging the allowable market rent and the marketplace, the availability or vacancy rate.

**Mrs Devan:** It's only a duplex, so we're talking two apartments here. When we have a vacancy and we put an ad in the paper, the phone literally rings off the hook. I suppose I could get more for my apartment than I do. I've never looked at it. I try to make it affordable because that's what I'm about.

**Mr Hardeman:** We've also had considerable discussion about the rent supplements that the province pays, and we are in fact still putting out \$1.5 billion in rent supplements. We also hear a lot of discussion about affordable housing and that the public-owned housing is somehow different because it's affordable compared to the private sector rental market. If that was the case, what is it in the public sector housing that makes it affordable? Is it operated more efficiently than the private sector housing? Is it built for less money than the private sector housing?

The question really would be: Is not the only difference how the rent is actually paid? That it's paid partly by the tenants, and the government, through rent supplements, if you want to call it that, pays the cost of that? Is there really a difference in the type of housing?

**Mrs Devan:** I don't think there's that much of a difference in the type of housing. In fact, I believe I was in your office presenting you with that brief at one time not too long ago, and there were some statistics that showed that the Ontario Housing Corp, at least in our community, operates below — as far as maintenance and upkeep of the building.

The rent supplements, however, are so important to our community. To me, they create a mosaic of our rent-geared-to-income housing. You're not putting all your poor people in one little category. Having them spread out among the private sector I think is a real plus for any community. I think it's a big mistake to cancel it. It provides us with many opportunities to integrate individuals rather than segregate them.

**The Chair:** Thank you, Mrs Devan. We appreciate your input this evening.

## RODGER COOPER

**The Chair:** Our next presenter is Rodger Cooper. Perfect timing, Mr Cooper.

**Mr Rodger Cooper:** Yes, sir. They informed me I should bring along some handouts. I'll just give the young lady a chance to do that. While she's doing that, I'll spend a second introducing myself. I'm from the town of Cobourg in the county of Northumberland. Cobourg is one of the nicest places in the country.

**Mr Stewart:** Don't say it in Peterborough.

**Mr Cooper:** In addition to being a landlord there for the past 20 years, I'm a lawyer. I'm coming to you with I suppose some observations and comments based on my experience as a landlord and as a lawyer and, for that matter, a tenant's lawyer and a landlord's lawyer.

I guess I'm old enough — I've got a little grey hair now — to sit back and reflect about things a bit and say that in order to have a good deal, I think you have to end up with a situation of balance. From my point of view a good deal is a no-win, no-lose situation. There's a lawyer's expression, "You can always tell when there's been a good deal because one side doesn't go off smiling." I see some response to that. That's one that everybody who's had a little bit of experience in life can agree with. The way I'd define that is as a no-win, no-lose situation. In other words, the landlord shouldn't be necessarily the winner at the expense of the tenant, and the tenant shouldn't be the winner at the expense of the landlord.

### 1800

You'll probably note in my little effort here, and I didn't try to make this into a long, formal presentation, this little part is supposed to represent a balance, but I don't have one of those little Vs on it to make it a balance beam. You'll know what it means: It's a balance. On the one side the tenant has a right to decent accommodation. The landlord obviously should have a reasonable reward for two things: his work and his risk.

I'm from the countryside, and we don't have any of those big corporations with thousands of units that exist in the city. As a matter of fact, I was thinking for the last couple of days about this and I know maybe two or three people in the town of Cobourg who make their living out of owning rental property. Most of the people are like me, they've got a few units, and they're trying to look after themselves and I suppose build something and they work at it.

If we're going to have balance, there are some underlying realities. The first reality is self-interest. Self-interest is the basis of all human interaction outside of the Garden of Eden. Even in Communist systems — I remember visiting Russia years ago, and they told me it was a classless society, that one person could make 10 times as much as the next person and have all kinds of privileges, but it was a classless society. They had a kind of capital there. You can be a religious person — everybody has got a kind of capital, no matter what kind of society.

The way one goes about writing a balance is that you have to have mobility. If I have a situation like this and I've got more weight over here, I've got to be able to move weight from one side to the other side to make the



balance. That's a really important concept. The result of not having that balance is captivity. It's the universal result of an imbalance. If I put more weight up here on this one side, if I move the weight to this one side, the person at the top end of the teeter-totter is a captive; he's floating up there and he can't do anything.

The next question I pose for you is, what is fair? That is the question. I submit to you that "fair" is determined in relation to the attributes of mobility. The one thing the tenant has is the right to move. He can choose his location; he can choose the length of time that he's going to be there; he can choose how much he wants to pay or doesn't want to pay. If he doesn't like it and comes to the end of his little contract, he's gone.

A landlord does not have that kind of mobility. A landlord is in; a landlord is responsible. That's a fact of life. That's the way the system works. It's the only way it can work, probably. What is mobility from a landlord's point of view? I suppose you could say one way to look at it is that mobility is definitely not being a captive, but mobility is probably being able to reasonably and fairly flow through, for example, occupancy costs that he has no control over such as taxes, insurance, utility costs, those kinds of things, because he has no control over them. If you have a situation where one person should not be a winner or a loser, then it seems fair that if there is a cost, the person who actually benefits from the cost be the one to cover the cost. I think that concept of mobility is a really important situation here.

The attributes of mobility, as you look at this thing to try to come up with some kind of reasonably intelligent balance on things, form a basis for analysis. Let's put it this way. There are two different kinds of things here: There are apples and there are oranges. That's the problem. The tenant has the right to move etc and that's his special right; that's his apple. But the landlord has got an orange over here. He's stuck. He's providing accommodation. He's not likely going anywhere or can't go anywhere in a lot of circumstances.

To be honest with you, I believe what is unfair is the question of captivity. I think there has been a situation over time, as a result of legislative and bureaucratic hurdles placed in front of the landlord, to pass on to tenants the cost of the benefits they have received and at the same time have no defence at all against the erosion of his value, of his work and labour, on account of inflation. He is, functionally speaking, as well practically defenceless against the collection-proof tenant or, as lawyers are wont to say, the judgement-proof tenant or the person of straw.

I would like to take a couple of seconds and share with you — well, I have a little bit of frustration and I have a story first about how bad it is to deal with some of these bureaucratic issues. My wife and I purchased a building in Cobourg that was a dump. The town was pleased to see somebody go and try to fix it. We went and tried to fix it; we did fix it and applied for a rent review. Before we started we asked for instructions in exactly what to do. After we had it all done we were informed that we would have to go and get the approval of all the tenants to the rent increase. How would you like to go and ask tenants for approval of a rent increase?

Do you want me to tell you how many people I got to say no to the rent increase? None, not one. They all agreed to the rent increase because we were fair. We told them when we went into this property, "We're going to make this a decent place to live, and it's going to cost money." We told everybody, and we went back. I just about died when I got this letter from the rent review people, "Go and get the approval of all of the tenants." A lot of those tenants hadn't even been there when the work was done. But we'd been fair to them and we told everybody all the way along. That seems fair. The only problem was that it took 18 months to get a determination.

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After six or eight months I wrote — you know bureaucracies take time — to the local office and said, "What's happening?" After a year I wrote three times to the minister's office, and finally they came out and said: "We have no way to calculate this. We have no way to calculate your rent increase." I said, "What do you mean?" "Our computer program won't do it." I said, "Do it by hand." "Well, that would be too expensive." I said: "Listen, just make some kind of guesstimate about what's reasonable, because you're only going to allow so many per cent increase anyway. You don't have to be brilliant; just allow it. You make a provisional order, and when you can solve the problems of your computer the right hand and left hand will get together." But you know what bureaucracy is like.

Eventually, 18 months later, we got it. All this is retroactive, of course. You go to these poor tenants, who could have had a simple little provisional order, and say, "Now you've got to pay this big, whacking sum of money." People have left all over the place. I can tell you I took a big hit. I can't find them, people come, people go etc. That's just an example of what captivity is.

I want to get down to the question of one particular area of captivity. I think tenants should pay for the utilities they consume, because they're neither winner nor loser; they're just paying for what they get. We went in this building and we put in meters for every single apartment, and the bureaucracy said, "We don't allow anybody to have rent review for people to pay for their electricity." I can't understand this. As I understand the situation, rent goes down as much as 25% when people pay their own bills. I've got this other problem, that the leases all say, "We're going to provide the hydro for your cooking, your heating, your hot water and your light," and they say: "Rodger, I'd like to have an air conditioner. I'll be glad to pay a little more." I say, "You're going to make me illegal and I can't do that." Somebody else wants a freezer. These are nice places. There's actually room in these places for freezers. People want to live like that. I can't absorb the cost and they can't have the freezer.

I think there should be the opportunity for landlords to choose to reduce their rent for hydro and gas. I suggest to you that when there is metered hydro, the amount be equal to 1/12 of the lower of the median or average annual hydro or gas costs of comparable units, after throwing out the top 15% who are keeping their place at 80, because they just throw everything askew, and somebody who's got a unit and gone to Florida for the



winter, you know what it's like; his bill doesn't count. For things like sewer and water that probably aren't metered, let me reduce the rent saying: "If I've got to pay \$20 a month for this stuff, here, I just reduced it \$20 a month, and whatever it goes up, it goes up. We'll just tack it on and adjust it once a year," or something like that.

I'd like to go on to another thing. I'll try and be a little faster. I want to talk to you about the question of courts and the problem landlord and the problem tenant. Look, there are problem landlords and problem tenants. I had a judge tell me this morning I made a mistake. I do family law. The situation of joint custody, a little girl — she's not a little girl; she's a big kid and she came in with her stepmom and I looked at her and I said, "I understand you want to stay with your dad." She said, "Yes." I said: "Don't tell me about it. We've got constraints in the law these days and costs etc. I'm going to find another lawyer for you to go and talk to. You tell him exactly what you want to say and then we'll get your views before the court," because I don't want to drag the kid before the court and I want to take all this long, bureaucratic process. So a judge tells me that I didn't do the right thing because Mr Thatcher from out in Saskatchewan arranged for a simple solution for one of his kids and the court took a dim view of it. I tell you this story because that's the kind of person I am. I try to find a simple solution for problems.

The simple solution for all this landlord and tenant mess is to follow the Small Claims Court example. In a Small Claims Court, ordinary lawyers with 10 years' experience are judges. There is no reason why we can't sit out there and have two sides come to our office or go to an office at the courthouse. You could have a lawyer in Campbellford, where you don't have to travel all this distance, come and be Small Claims Court judges or the equivalent to that. We'll call them small claims residential tenancy judges, and we could solve 90% of this solution, sit back and say you don't have to have everything recorded and all the rest of that, and if you want to appeal it, go and appeal it, but at least we could solve 90% of the decisions. If you checked with the legal aid people who have got both sides on legal aid, they have mandatory so-called mediation. They're getting probably a 90% solution because somebody holds — the whole thing about solving problems is you've got to communicate. We probably could get good solutions like that.

Another imbalance is the question that in a small community like ours, you can go and get pretty aggressive, extremely knowledgeable legal representation, if you're a tenant, who would be able to tell you every little dot, jot and tittle of, "Well, they didn't fill out this form quite right, they left this little mark out here," and they can go and get you another six months or three months while the landlord goes and starts the process again. I'll tell you, as a small landlord, there's no help out there. Most of the people don't go around spending their lives trying to know little bits and pieces of technical jargon. Why, my goodness, this landlord and tenant stuff is more technical with little details than the law. The general law at least has the question of equity.

Last point: There are such things as collection-proof renters who can stay in possession rent-free or leave without notice and abuse the system with impunity. This is simply unfair to landlords. I've got to tell you, it's really difficult for me as a landlord to have a young single parent say to me: "Listen, I don't have to pay. You can't make me pay. You have the right to get me out and you couldn't collect from me if you want to, because my social worker told me." I would just simply say to you that there are a lot of risks and it seems fair to right the balance. It's the mobility thing. So I would just suggest to you one way to right that kind of risk is the mobility of the landlord having the option to ask the public assistance provider to pay directly to the landlord. I think I'm 26 seconds late.

**The Chair:** Thank you very much, Mr Cooper. We do appreciate you coming today and giving us your input. Have a good evening.

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#### ONTARIO PRIVATE CAMPGROUND ASSOCIATION

**The Chair:** Our next presenter is Sheron Burgis, president of the Ontario Private Campground Association. Good evening, Ms Burgis. Welcome to our committee. You have 20 minutes. Should you allow some time for questions, they would begin with Mr Marchese.

**Mrs Sheron Burgis:** As the Chair indicated, I am Sheron Burgis. My husband and I own a trailer park in the Hastings area. But today, I am here as the president of the Ontario Private Campground Association and its 400 members, who wish to thank the members of the standing committee on general government, rent control, for providing us with this opportunity to address you. We applaud the government's efforts to streamline the current legislation governing landlords and tenants.

I'd first like to give you a little background. There are approximately 1,200 campgrounds in the province of Ontario with a total of approximately 110,000 sites. These campgrounds provide employment to approximately 8,000 Ontarians. The camping season traditionally is from Victoria Day weekend to Thanksgiving weekend, plus opening and closing times, a camping period of four and a half months.

There are two distinct types of recreational camping: seasonal camping, where campers leave their units on the sites for longer than 90 days — approximately 66% of those sites do provide that type of camping; the balance provide transient camping, which caters to tourists from the province, out of the province and out of the country, using camping accessories ranging from tents to motor homes.

There is a vast range in campground sizes, services offered etc. Typically, campground owners install, maintain and pay for all services they provide. These services include water, sewer, hydro, garbage and recycling. These services can only be provided during the warm weather season, as winterizing costs are generally too prohibitive.

Campgrounds generally located in rural areas are a prime contributor to the local economy. Campgrounds are



traditionally owned and operated by families. These are small business people and the very grass roots of the tourism industry. Their survival is dependent upon weather, economic climate and, most of all, dedicated perseverance to overcome obstacles.

Campgrounds are designed, developed and operated strictly for recreational purposes and conform with municipal zoning. To ensure that all campers enjoy their vacation, a strict set of rules is developed by each campground owner. These rules generally deal with conduct, noise, usage of camp sites, equipment, vehicles, hours, payment of camping fees etc.

The issue is the Landlord and Tenant Act proposed changes. In a lot of cases where campers are given an eviction notice for not abiding by the campground rules, grievances have been filed under the Landlord and Tenant Act, as the campers generally find a section of the act that could remotely apply and the hearing proceeds. In the meantime, the problem camper remains in the campground and generally his or her neighbours leave.

Campground owners have to attend hearings at a great expense of time lost and in some cases legal fees. Remember, the campground owner is an owner-operator. The province often will provide the campers with legal aid. Rulings show that the act does not apply. However, the campground owner does not receive compensation for his or her time that has been lost, expenses and the lost revenue from those campers who may have already left the campground during the time period.

**Request:** We are requesting amendments to the Landlord and Tenant Act that would ensure that the act apply to residential tenants and not to the recreational or vacationing tourist. The act must be clear as to what constitutes mobile homes and park model trailers. This distinction is provided by both the Ministry of Housing and the Landlord and Tenant Act.

A mobile home has been defined by the Ministry of Housing as follows: A mobile home constructed to either CSA Z240 or the CSA A277 standards is intended to be occupied on a year-round basis. Consequently, the construction includes such cold weather requirements as adequate RSI value for insulation, vapour barriers, adequate heating facilities to maintain minimum design temperatures, windows and doors constructed to CSA standards for materials, tightness and thermal resistance, protection from freezing of plumbing pipes and drains and many other features too numerous to mention which are required by the OBC and found in site-constructed homes intended to be occupied on a year-round basis.

As well, the Landlord and Tenant Act, part IV, section 79, has the following definition of a mobile home:

“‘Mobile home’ means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.”

A park model trailer is different and is defined by the Ministry of Housing under CSA Z241 as a recreational unit that meets the following criteria: is built on a single chassis mounted on wheels; is designed to facilitate relocation from time to time; is designed as living quarters for seasonal camping and may be connected to those util-

ities necessary for operation of installed fixtures and appliances; and has a gross floor area, including lofts, not exceeding 50 square meters when in the set-up mode, and having a greater width than 2.6 meters in the transit mode.

The Landlord and Tenant Act lists as an exclusion, “accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home.”

However, the Landlord and Tenant Act regulation 705, section 2, paragraph 2 — listing classes of accommodation deemed not to be residential premises for the purposes of the act, also says, “Premises rented as a vacation home for a season or temporary period not exceeding four months.”

This section is the section most commonly used in order to obtain a hearing by a camper under the Landlord and Tenant Act. Does the province want to arbitrate vacations of any duration? We are advocating the removal of “not exceeding four months.” Accommodations at most campgrounds are seasonal and, depending on weather conditions, could be from May 1 to October 30. We are therefore in some instances exceeding four months.

In summary, we are recommending that exclusions and definitions regarding mobile homes, as distinct from park model trailers, vacation homes, campground and trailer parks, in the legislation be clearly explained and that efforts be made to eliminate ambiguities; that reference to vacation duration be eliminated; that some consideration be given to zoning and suitability of accommodation in the act so that the Landlord and Tenant Act cannot be used as a tool to breach or circumvent other laws.

I thank you. Would there be any questions?

**The Chair:** Thank you. We’ve got about three and a half minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** Yes, as a quick question: In terms of a problem camper, what might that problem camper do?

**Mrs Burgis:** In most instances, where we have a problem camper it is because their conduct has become unruly, perhaps belligerent, perhaps offensive to other campers in the campground, or perhaps the camper themselves. This generally is the instance whereby a seasonal campground owner would go to the eviction status as opposed to another way of handling the situation.

**Mr Marchese:** Are there rules that campers generally read in advance of coming in so that they are clear about that, or do we deal with them as problems arise?

**Mrs Burgis:** No, in most cases well-run and -operated campgrounds do provide a set of rules or regulations or a policy handbook. In addition to that, when they fill out or complete their seasonal agreement each season, that addendum is attached to that indicating. As our provincial association, we stress to all of our campground operators that this is the mode in which they should be operating.

**Mr Marchese:** Did you try in the past to get this matter dealt with in previous legislation? What happened?

**Mrs Burgis:** There really, as far as I’m aware, has not been any other time where we have actually asked for the



legislation to be changed. It has been challenged through court cases and in some instances, because of this four-month clause, regardless of the fact that everything else was understood within the hearing, the four-month would surface and they would consider it to be a permanent residence. That is where the ambiguity of the intention is causing the problem.

**Mr Marchese:** But in order to deal with the problem, I think you've suggested that clause be eliminated.

**Mrs Burgis:** Yes.

**Mr Marchese:** Not reduced in time, but rather eliminated so you could have the power to deal with a problem camper.

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**Mrs Burgis:** Exactly. The time element really is not the criterion. In our situation, where it's vacation property and vacation experience, the time could vary and the four months is being interpreted at some judgement stages as being the sole criterion. Therefore, by having that in there, it does create quite a bit of confusion.

**Mr Marchese:** So if there's a problem between you, the owner, and that camper, if you take that out, of course, you're the one who has ultimate control over that. How would the dispute be dealt with if somehow the camper says, "This person is treating me unfairly. This is abuse of power," or discrimination, let us say? How would that person deal with it?

**Mrs Burgis:** I suppose if it was something to be more of a civil nature, then perhaps that's where it might be dealt with, as opposed to something dealing with rent and occupancy of a camping space.

**Mr Maves:** Thank you for your presentation. This is a little unusual and outside of the discussion paper, but I can see it being a problem. When a camper comes into a campground and they sign a lease or a contract, is there a length of stay listed on the contract?

**Mrs Burgis:** If it's a seasonal camper, the length of season is clearly indicated within the terms of the agreement and within the guidelines of the agreement that's signed.

**Mr Maves:** All right. What happens now? I would imagine part of your problem is you get campers coming in and some of them are loud and drinking beer and so on and carrying on. I would imagine that would be your biggest problem. What's the process now for dealing with that?

**Mrs Burgis:** With respect to a weekend camper or a short-stay camper, we would act under the Trespass to Property Act and we would enact that in terms of handling the situation that's contained within a short-stay period. Where we are getting into the longer stay or the seasonal camper, where we have incidents developing or happening — and please don't misunderstand. It isn't a one-time event. In most cases it's been repetitive, three or four incidents, where it has now gotten to be an uncontrollable situation where there's definitely a detriment or a harm to the ongoing business at hand. That is where in most cases the campground owner will go to the process of trying to enact the Trespass to Property Act and that is where the camper will go to legal aid or perhaps some other form of legal advice. Sometimes it's the rent control board itself where they have called and asked for

information and someone has said to them, "If you've been there longer than four months, automatically you're under the Landlord and Tenant Act and we have a case."

**Mr Maves:** So this is in your eyes obviously an abuse of the act because your campground is not meant to be a place of permanent residence. Clearly it's meant to be a vacation spot.

**Mrs Burgis:** Yes, clearly, and that is clearly stipulated in any agreement or anything that's put forth by the campground owner to the camper, that this is a seasonal or a vacation opportunity. It is not designed or meant to be or intended to be a permanent residence by any nature.

**Mr Hardeman:** Good evening. To make sure we clarify, the issue of the trespassers act deals with all people who are just there for one or two nights. The Landlord and Tenant Act is the one the tenants are trying to use to stop evictions, but in reality they should not be allowed to use it; it's interpretation. So you're not asking for anything more than is presently in the act, just a clarification to make sure we don't get messed up in legal proceedings that do not benefit anyone?

**Mrs Burgis:** That is correct. We're not asking for anything to be changed. We're just asking for the ambiguity to be cleared up in relation to the length of time as it refers to the vacation or the recreational experience.

**Mr Hardeman:** Thank you very much for the presentation.

**Mr Sergio:** Mrs Burgis, some of the concern you have expressed is very similar to others we have heard from owners of mobile homes, mobile home operators, and I guess a bad tenant is a bad tenant is a bad tenant as well. I think there is enough in there that it warrants to have a look at the legislation as it deals with both, for the tenants of a camping ground or mobile home or the operators themselves. I think there is enough that warrants a good look.

My question to you is with respect to subleasing. We haven't heard anything with respect to subleasing a mobile home or a camping ground, in your case. How do you deal with situations like that, or you didn't have any situation like that?

**Mrs Burgis:** No. We do not allow it or it is not part of the operation, subletting. When a seasonal agreement is signed between a campground owner and a seasonal occupant, it is for that particular individual. It does not allow for them to sublet or to arrange for someone else to make use of their unit. That is very clearly —

**Mr Sergio:** So that's not a problem for you?

**Mrs Burgis:** We've never had that problem that I'm aware of.

**Mr Sergio:** For the purpose of taxation — do you pay taxes?

**Mrs Burgis:** In what form?

**Mr Sergio:** Realty taxes. Do you pay business tax, realty taxes?

**Mrs Burgis:** Yes.

**Mr Sergio:** How are you assessed for assessment purposes? On a residential basis, or commercial?

**Mrs Burgis:** We're assessed as commercial and not as residential.

**Mr Sergio:** Normally, how many campsites do you have on a reasonable camping ground, let's say?



**Mrs Burgis:** They can vary from 25 to 700.

**Mr Sergio:** The tenants in this particular case here, are they local or do they come from out of the province or out of the region?

**Mrs Burgis:** In most cases they are definitely from out of the region. We do have several areas where they're out of the province and in fact out of the country, particularly on the border locations. We have a lot of Americans who come for vacation time in Ontario and travel back to their permanent residence in the United States; vice versa with other areas —

**Mr Sergio:** Do you charge — sorry. I'm rushing because of time. Do you charge first and last month —

**Mrs Burgis:** Never. No. It is strictly based on a per-season fee. The method of paying it may vary from campground to campground but generally it's a fully paid seasonal fee at the beginning of the season. Some allow a two-part payment or payments over the course of the season before the season starts.

**Mr Sergio:** The fees you charge, are they controlled by a particular level of ministry or government?

**Mrs Burgis:** No, they're not.

**The Chair:** Thank you very much. We do appreciate your input here this evening.

#### TENANTS VICTORIA

**The Chair:** The next presenters are from Tenants Victoria, Alfred Edward Starr and Mary Ann Fitzpatrick. Good evening, folks. Welcome to the committee. The floor is yours.

**Mr Ted Starr:** I go by the name of Ted Starr. I have the long moniker of Alfred Edward. This is my wife, Mary Ann. Mary Ann didn't plan to be here today because we're expecting our first child today, but it hasn't arrived, so she wanted to come down and see the hearings.

Just for a little background, Tenants Victoria has been in existence about six years. It's been a small volunteer group to give some advice to people in the Lindsay area. Our major activity has been putting on a cable TV show and we've brought guests in from across the province, primarily from the tenant movement, to help answer people's questions. I think my wife wants to say a little bit first and I'll let her go.

**Ms Mary Ann Fitzpatrick:** First of all, I'd like to thank you very much for allowing me to be here with my husband. What I'd like to do is put a little bit of a human face on the reality of housing. I've listened to the presentations here today and they've been wonderful, but a lot of the arguments have been rather cerebral.

I'm involved with women's resources in Lindsay and Victoria county on sort of a peripheral basis. I come into different committees and help out when special activities are needed. Yesterday I met with our federal MP, who happens to be John O'Reilly.

I guess what I have to say is merely this: 37% of people in the province of Ontario are tenants. That's a lot of tenants. That's a lot of people who need representation, who need help. Many of those 37% are people who through no fault of their own, through downsizing with their jobs, through perhaps mental or physical illness or simply the emotional strain and pressures which today's

living can bring upon you without your realizing what's happening until suddenly you burn out, are forced into situations where for the first times in their lives they become renters. I'm sorry. I wasn't prepared to speak today, so please bear with my nervousness.

#### 1840

But what really scares me is the fact that 30% of all sole-support parents in the province of Ontario at this particular time are spending over 30% of their income in order to maintain a roof over their heads. Imagine if you will what it would be like if you woke up in the morning and you found your income cut — you were on welfare, you were on family benefits, whichever the case may be — and you found that because you had moved and changed residences to be, if you're a senior, closer to your family, or if you lived on Bloor Street in Toronto and you wanted to move to Spadina, your rent has increased by, say, 30%. Because after the legislation comes in, if the market is going to dictate exactly how much the rent will be, it could increase by that amount.

Therefore, you're in an apartment. You don't know if you're going to be able to afford it or not. You may have a health problem. You may be in a situation where you're paying so much for your rent that you only have \$400 left and you're trying to feed your family; you're trying to feed yourself. You may be looking for a job. How do you buy clothes for that first interview? How do you make yourself presentable enough and appear worry-free and stress-free to go out there and face a would-be employer and say, "Yes, I'm a worthwhile, available person," if you aren't sure you have a roof over your head? It's a question, but I'm just asking you this.

The other thing is, what a lot of people don't realize is that not only women but men as well are victims of violence. I'm a social worker by definition, but I also have a background in working with the mentally ill and I also have a background in practical nursing and I also have a background in teaching. I've jumped all across the board. It's especially difficult for men to admit they have been beaten by their wives, girlfriends, husbands or partners. It's very difficult. That's why automatically when you think of family abuse, you think of women. But it's a problem that everyone has.

With the system changing the way it is — the lack of legal aid, the lack of money which is available to sole-support parents or single people or people with psychiatric and mental problems — how do they access a lawyer? Yes, we have legal aid now, and thank God you've kept it going; we appreciate it. But the thing is, we aren't guaranteed that the legal aid plan we do have will last.

Right now it's still very, very difficult for people in the rural areas to access any help at all, because there's no help there, speaking just from Lindsay. We don't have a legal aid clinic, we don't have a lawyer who will handle the poor, and it's a sad situation. So what's happening is that men and women alike are staying in abusive situations. They have nowhere else to go. They can't afford an apartment. They can't afford to run. They can't afford a lawyer. They stay. They die. Look at the news. It doesn't always happen that way, no, but there's a lot of tragedy out there.



Please understand that housing is a basic right for everyone. It's not just a business. Certainly landlords are entitled to their dignity, their respect and their money. I have no qualm with that. But a house is a right; it is not a privilege. Thank you very much.

**Mr Starr:** I want to apologize to the committee for not getting a handout and so on ready. Part of it was expenses. We're a small group and we could ill afford it. The other thing is that between the baby and other personal priorities, we just didn't have the time. We hope to possibly prepare something and fax it to the ministry and also to the committee tonight or tomorrow.

A real concern we have is — my training was engineering and law, and I often think — form controls substance. Just the cover of the document upsets me, because it does focus on tenants, yes, but it's more like a target. The name of legislation is "tenant protection." The contents of the document, in our opinion, did not justify that. It certainly is a new direction, but unfortunately it looks like it's going to be an increase in rent and an increase of power to the powerful, which would basically be the landlords.

I think it's important for the committee to understand that we're from Victoria county. A lot of people don't know where it is. Those in the government party will remember it as Les Frost's home town and home county, but it's on the periphery of just about everything. We're on the edge of the GTA, we're on the periphery of the Kawarthas, as centred on Peterborough. We're on the periphery of Oshawa. Hell, we're even on the periphery of Orillia.

We're not well understood; we're not well serviced. We're a very traditional area. The standard reasoning has always been that if you move in, your grandchildren might be considered local. That is changing, but there are very distinct populations within Victoria county; that is, the old traditional families, the new permanent families, and we have a large seasonal population. It's not an area that's well understood or well serviced.

The important thing to remember is that Victoria county, as well as Haliburton county, has no legal clinic. The Peterborough clinic will give legal advice and will accept collect calls. The Georgina clinic helps tenants of Victoria by providing legal advice and has given us their tie line number. But the thing is that without the clinic, there's a real problem in attitude, especially in service agencies. For example, the social services department and the family benefits department have no one to challenge them. The people who are looking to help get people housed and to help the disadvantaged and so on do not want to challenge those agencies, because they're their source of income. So in Victoria county we have a real problem.

I would like to correct one thing that one of the previous presenters said. There is the Landlord's Self Help Centre in Toronto. It's been in existence for some time and we have made it a practice that if we have any calls from landlords, we always refer them to that agency. I haven't had any further dealings with them, but it is something to remember.

Initially, we were going to make a very detailed presentation and decided against it because we expect

you're going to hear more details across the province than you'll ever want to hear again. But I would like to make a couple of suggestions:

(1) Whatever you call this legislation in the final, don't include the words "landlord" or "tenant," please. "Tenant" legally has the connotation of being a serf. It's somebody who was sold with the property. "Landlord," by its very nature, gives a sense of power. My French is very inadequate, but I note that in the French version of the statute, I believe the words are "locateur" and "locataire." There's an interrelationship there. You can't be what we call a tenant or a landlord without having somebody else in the other function. Please use something like "lessor" and "lessee," something that says that we have to work together. Also, don't call it tenant protection legislation. It isn't one-sided.

Mary Ann has mentioned the fact that for a tenant, we're talking about home. For a landlord, we're talking about a business or an asset. But I would point out that during the rent control hearings about four or five years ago, a chief building official from the region of Durham said a very interesting thing. He said in Europe, where he came from, buildings were bought by one generation so that they would provide some income for the next generation and a good income for the second generation down. They kept the buildings. He said that here the whole idea is to make as much money in as little time as possible, and the thing is, the buildings suffer. I think it's really something that has to be considered.

The main focus we'd like to suggest is that we really have to have some way of getting those who own the buildings and those who occupy them to work together. I think the worst possible thing that can be done is vacancy decontrol of rents, because what that will effectively do is put a lot of pressure to get rid of tenants who have the lowest rent in the building. I think it's something that really should be seriously reconsidered.

I would also strongly urge that there be more public information about what rents are available for units. I suggest that rather than scrap the rent registry, it be made universal; that any unit to be rented had to be registered so that people could call a public agency and find out. If you're going to own buildings, you can either go to the registry office or the land titles office and you can find out anything you need to know about that property. If it isn't registered there, it doesn't affect you. There should be something similar for tenants.

It should be remembered that tenants' rights, until very recently, did not exist. I think tenants have only had the municipal vote for less than 30 years, so I think it's time we bring things into the 20th century and give more rights to tenants. They, of course, have to balance with the landlords' rights. I also think that if the province is going to set any minimum standards, then it should look after the enforcement. Don't download it on the municipalities. They've got enough things to do, and enough costs.

#### 1850

The other thing is that I hope the new legislation, when it is worded, will say something about rent changes, not just rent increases, as the previous tendency has been. I'm not sure how best that could be accomplished, but I think



there should be some provision that if the market demands a decrease in rent, the rents should be allowed to go down but not be tied to vacant units.

I also strongly urge the committee to recommend a simplified act, because a lot of tenants, especially, are very unsophisticated; a lot are illiterate. A lot of them, as Mary Ann has said, have emotional problems; they don't understand the system. There's a lot of misunderstanding out there. There are a lot of landlords who are very unsophisticated.

I really think the model of the current proposal of having it as a tenant-reactive system, where the landlord can do something and the tenant has to take steps to stop that, is the wrong model, because you're dealing with people who are in fear of their accommodation and quite often it takes a week to two weeks for them just to realize that they have to do something. I'm really worried that the time frames are going to be such that in the goal for having efficiency, we're not going to have an effective system to protect people.

The other thing is I would strongly urge the committee to consider having some system whereby there's fairness in decision-making. My father was a bureaucrat. He worked for the provincial government for 30 years. I had great faith in him, but I wouldn't want him being the only one to decide someone's fate. I strongly urge the committee to consider something that was done in the original rent control legislation in 1976 where each board that made a decision had one member nominated by a landlords' group and the other one nominated by a tenants' group and they had to agree on any decision they made. I think it's a reasonable way to balance things off.

I have real concern that the landlords remain funded simply because they get income from rents, but tenants have been defunded by the province. I know in south-western Ontario many tenants groups were defunded, including the London tenants' federation, which was in the process of setting up an 800 line for tenants in mobile home parks.

I hope we've left a little time for questions. I'm sorry, but there's a lot of things to do. One thing the committee might consider is something that the tenant movement has long favoured, and it's been referred to as a rent checkoff whereby, possibly through the municipal tax system, \$1 per unit per month would be used to fund tenant organizations locally and provincially, in building associations, area associations, and also province-wide ones. Because tenants who don't have a voice, if they don't feel they have a part in the system, then they're going to fight it, and it's not going to be a friendly time if this legislation goes through the way it appears to be drafted.

I would really also complain that from my training as a lawyer, I don't like having a discussion paper about what the legislation would look like. I'd much rather have the actual wording so that we have something to see what it really means, because something can say one thing and actually end up doing the opposite.

**The Chair:** Thank you, sir. We've got about a minute and a half per party for questions, beginning with the government.

**Mr Stewart:** Thank you for your presentation. The previous lady, before you folks came in — I wanted to

ask her a question but didn't have time, but one of the lines that she had was, "There must be a way to address the need for affordable housing and still acknowledge the needs of landlords and tenants." I guess one of the things in the few days that I've been in these hearings that I'm getting more and more concerned about is that we are getting many groups that come in and want the status quo. We are getting many groups that are saying, "Leave it the way it is; it must be working." Yet I'm hearing from groups that there are a great many people who are on waiting lists. I'm hearing about the worry of rents going up, there are no accommodations etc.

What I'd like to hear — and I want to emphasize the fact that this is a discussion paper, not an act, not legislation — and I think that's what these hearings are about, are ideas that you have to solve affordable housing and how we're going to create that necessary housing for the people who are in need of it. Don't just say — and I'm not singling you folks out — don't, please, say no. Please give us the input that we need to solve the problem about affordable housing. Everybody seems to be concentrating on rent. You tell me how you feel that we can create buildings and houses and roofs over the heads of people. That's what I'd like to hear.

**The Chair:** Unfortunately, Mr Stewart —

**Mr Stewart:** I took it up? Sorry. My apologies.

**The Chair:** You're going to have to get Mr Starr to give you those submissions in writing.

**Mr Stewart:** We'll go outside after it's over. My apologies, sir.

**The Chair:** Mr Sergio.

**Mr Sergio:** I won't be too long because I want to get a question in. One of the previous speakers was Mr Cooper. He said we have to create this sense of balance. Some of the ones we have heard think the balance is tilted at the moment towards the tenant; others would like to go the other way. I believe the legislation, the way it is, would tilt the balance completely to the other side. If the government were to approve the legislation as it is proposed, which way do you think the scale would be tilting towards?

**Mr Starr:** Let's put it this way: On our TV program we had a sign up that said "Tenant Protection Legislation or Landlord's Licence to Hunt Tenants?" I'm really afraid that the present proposal will make it — I'm loath to think of what will happen, and it certainly will not work for cooperation between landlords and tenants. Especially in our area, where there is no legal clinic, tenants are not represented. Very few lawyers will take landlord and tenant matters, simply because there isn't the money in it through the legal aid system.

**Mr Sergio:** So we don't have to create any balance, in other words?

**Mr Starr:** I think this is going to destroy what balance there might already be. Mr Stewart was asking about affordable housing and rents. Rents, when that's what you need to have a roof over your head, are very important. I think the solution for affordable housing is a long-term thing where we build things in today's dollars and then have it 30 and 40 years down the road where we have an asset and we can continue to use it. I'm really concerned about doing it the other way.



**Mr Marchese:** Thank you both for coming. I wanted to agree with the statement you made, and that is that in this proposal the tenants are a target; they really are not the recipients of assistance in any way. In fact if you read through the whole document, it offers much to landlords and very little to tenants, so the spirit of cooperation that you're hoping to get out of any document — this doesn't do it. The landlord or, the French word, *propriétaire* is the one who is the beneficiary of all of this.

A previous lawyer talked about balance — well, I won't get into that because that's not a question, but I want to ask his question. He says this is a discussion paper. Is there anything in this discussion paper that helps the landlord, by and large? Is there anything in this paper that helps us to build affordable housing? Of all the suggestions they made, of all the giveaways, is there anything that's going to create affordable housing?

**Mr Starr:** I don't think so; I really don't. I think what you're going to find is that affordable housing — you often find that people who need affordable housing have special needs. I know in the case of Lindsay, Women's Resources had an 18-unit development that was designed in such a way that it was primarily intended for abused women and their children. They already had architects' plans so that somebody in one kitchen could watch the children of the people in the next one because the units were built in mirror images of each other. These are special needs a lot of times.

The private sector has not proven in the past to provide affordable housing unless it was in slum conditions. Our local housing crisis office at one time had a landlord phone in and say it was a beautiful apartment. They went out and it was a converted dog kennel, and not very well converted at that.

**The Chair:** Thank you, Mr Marchese. I would comment you didn't ask exactly the same question as Mr Stewart, but you asked it much quicker.

Thank you very much, folks. We appreciate your attendance and your input here this evening.

#### CINDI ZWICKER

**The Chair:** Our next presenter is Cindi Zwicker. Good evening, Ms Zwicker. Welcome to our committee. You have 20 minutes. Should you allow some for questions they would begin with the Liberals. The floor is yours.

**Ms Cindi Zwicker:** Great. I'll give you 10 so you can have a break. How's that?

Good evening. My name is Cindi Zwicker and I would like to thank you for selecting me to present to you this evening. When I was told that I had been selected I was excited that you wanted to hear from me as a tenant. It felt good that you were interested in my viewpoints. But after some thought, I began to think about the language you had used in your discussion paper, and it seems to me that you have borrowed the language used by our previous government. But I am hoping, like our previous government, that you really do want to hear about my issues and my concerns and people who are in the situation that I am in. Although I was left feeling somewhat sceptical about your process, you'll be happy to hear that I decided to give you the benefit of the doubt.

I want to spend some time telling you who I am and what I am about. I am a 36-year-old sole-support mom of a beautiful, well-adjusted, believe it or not, intelligent 11-year-old son. I am a university student. I have recently graduated from Trent University with a bachelor of arts degree with a joint major in history and sociology and will be furthering my studies this fall. I wasn't eligible for OSAP. Somehow I did it without doing anything illegal. I'm not sure how I did it but I really hope that no other woman has to go about doing what it took me to get a university degree. I am from a middle-class background and both my parents are ministers of the Salvation Army. Don't hold that against me.

#### 1900

The reason I am telling you this is to express to you that I acknowledge my privilege in our society. Although I am living below the poverty line at this point in my life I am a very lucky woman. I am not suggesting that life is easy as a sole-support mother but I would not change these years for anything. Why? Because I now understand what is meant by the terminology "structural inequality." I believed, as I'm sure all of you in this room did, that if I applied myself and worked hard I would have everything I needed and hopefully everything I wanted in my life. I now know that this notion was mythical.

Although I am here tonight as a tenant, I worked as a housing advocate before going back to university. Please do not fear the word "advocate." I am offended — please do not take this personally but I need to say what I feel tonight — that the Conservative government consistently suggests by its actions and its words that advocates work against the landlord and are only concerned about the tenant. In my opinion this is not the case.

During my employment as a housing advocate, the most rewarding part of my job was mediating the resolution of conflict between landlords and tenants. In fact, it didn't take long for me to realize that most landlords are good landlords and most tenants are good tenants. Most landlord-tenant conflicts were resolved and most often terms were negotiated that suited both the landlord and the tenant.

Within our social structure we have those with power and those without. In a landlord and tenant relationship, and because of the structure of this relationship, the landlord has power over the tenant. This does not mean that the landlord is necessarily a bad person, we know that, but within our mode of production it's just the way it is. Here is an analogy, and I think it's a good one; I was really pleased with myself. In a parent-child relationship the parent has power over the child. This certainly does not mean that all parents are bad people but, as we know, there are parents who abuse the power they have within that relationship just as some landlords abuse the power they have in the landlord-tenant relationship. So we have laws and policies in place to protect the rights of children and we have laws and policies in place to protect tenants even if these laws and policies sometimes are inconvenient for us.

The question that keeps coming up in my mind is, why do we need to make changes to our current tenant protection legislation? What I have heard about the changes to rent controls — if they're false, please tell



me — is that they will protect tenants. Personally, I don't understand how.

Presently I have a donship at Trent University, so the changes that are occurring will not affect me immediately. When I am finished school or decide that a donship is not suitable for my son and myself, I will have to find housing in a market rental. Why does this scare me? Because if a place that presently rents for \$600 a month changes tenancy several times over the next five years, the rent on that particular unit could be unaffordable. Now you will probably say, "Most landlords won't be that unscrupulous," and I believe you, but why make it possible for unethical landlords to adhere to such a practice?

My dream, when I gave birth to my son 11 years ago, on my own, was to provide for him a home, a family home. I know now that dream most likely will never be realized, but I have promised myself that I will do whatever it takes to provide him a place to call home, even if it is a rental.

How about university students who rent apartments for eight months out of the year? Every eight months or so the rent on those units will go up, and we know it. That's part of the way this system works.

Please don't take away rent controls. I know you're saying you're not, but from what I've read, and I don't understand all that stuff, it looks like it. The present rent controls are working to protect both the landlord and tenants, so why put your energy into something that's working? There are so many other issues out there. Your energy could be better used going after landlords who have outstanding work orders. Are you aware of the unsafe apartments in our province?

By ensuring that all people in our province have affordable housing, you are facilitating their ability to become productive members in our province. When I say that, I look back to 10 years ago. When my son was a year old I went back to university and decided I was going to be a lawyer. I wasn't eligible for OSAP because I fell through the cracks and there was no one who could help me. My family are Salvation Army officers. Even though we're middle class, we don't have money and they couldn't do anything. I quit school, got a job, great jobs, not making great money but they were great jobs, so at the age of 36 I'm still in school trying to eventually have a professional job. I just think it's really sad, and it happens all the time. Not all single mothers — I don't believe any single mother, personally — want to be on mother's allowance.

Children being raised in unstable or stressful environments do not have a good chance of becoming well-adjusted individuals. We need to look at external factors, such as poverty, which cause hardships to many households. I want to make it perfectly clear to you — I said this but I got away from this little printed sheet — tonight that sole-support mothers do not choose to be on family benefits. If given the right network of social supports and not putting barriers in their way, many more would be better able to provide a better quality of life for their children. I believe that all children, regardless of their background, deserve this, and I think all of you do too. It's the way we go about initiating different things.

A paper written by the Vanier Institute of the Family in 1979 says it so succinctly: "Children's needs can only be met if parents are willing to be caring; in turn, parents' willingness to be caring will depend heavily on the support and affirmation they receive from their societal environment."

With that, I'm not saying we want everything given to us, but we don't want these brick walls being put in front of us. I confess to you that I really do not know much about the Lampert report except that it was prepared by a prominent landlord who argues that putting an end to existing rent controls will stimulate investment in real estate. In a city such as Peterborough, those able to pay high rents will not rent in those buildings; they will buy. If I could afford high rent in Peterborough I wouldn't be renting; I would be buying. Even if it was a little wartime house with a little white picket fence I would buy. You are probably thinking right now, "How about Toronto?" I feel that people in Toronto who can afford the high rents would most likely move to those places because real estate is very high in metropolitan cities. What are we creating? Ghettos? I don't want my son ever to have to live in a ghetto because I can't afford to have a half-decent apartment. I have tried to provide for my son. So please don't do this.

I would like to offer you my services, for pay, not workfare. Would you like me to prepare a report similar to the Lampert report but from a tenant perspective? We could call it the Zwicker report, and you would be creating a job for a woman who wants to work. I want to work.

I have been going over the goals for the new tenant protection system and I have some concerns. I would like to present three of them to you so I understand better. If you can respond, if the Chair or I don't know what they —

**Mr Sergio:** That's the Liberal side.

**Ms Zwicker:** Okay. Sounds good. It states that the new tenant protection system will protect tenants from unfair rent increases, evictions etc. How does the existing tenant protection system not protect tenants from unfair rent increases etc? What are you comfortable with? I'm not comfortable with you asking me questions, so I'll give them to you. But if someone seriously could answer that I would love it.

**Mr Preston:** Mr Chairman, why don't you just change places here and get some order.

**The Chair:** Why don't you finish your presentation and leave the questions unanswered. When it's the government's turn they can deal with the questions.

**Ms Zwicker:** Okay. I'm giving you this power, but I will do it tonight because I'm in this position.

**Mr Marchese:** She could ask questions and the government members can answer them. I'm willing to give my time away. We can do it her way.

1910

**Ms Zwicker:** You know what? If I can't answer something, then we can go back to these. I think people will be fair about that. If I can't answer your questions, then if you can come back to these, that would be great.

It also seems that the reforms will focus protection on tenants rather than on units, but how does the existing



system not focus protection on tenants? I honestly have tried to figure that one out.

It also states that the new tenant protection system will improve enforcement of property maintenance standards. Can this not be done under the present tenant protection system? We need to look at that, and I realize it, but I think that can be done under the existing legislation.

**Mr Curling:** Let me attempt to answer some, especially the last one.

First, it was an excellent presentation. As a matter of fact, you woke me up.

**Ms Zwicker:** Thank you. I was going to wake you up. That's why I didn't give you my presentation.

**The Chair:** We've got about two minutes per caucus for questions, beginning with the Liberals.

**Mr Curling:** Within the guideline that is presented now, you said, "Why are they changing it?" I'm confused too, because they said they were going to improve this. It doesn't improve it at all for tenants. That's the way I feel. Within the guideline the landlord gets all the time: Provisions are made for maintenance to the building; not only that, provisions are made for profit for the landlord; not only that, provisions are also made for all the operating costs that are involved. It has been so good to landlords that some can't even accept the legal maximum rent, so they charge far less, because those who are coming in are not able to afford rents as they go up. The system right now works very well for landlords. What should be done is some more protection for tenants.

I only have two minutes, so I'll just attempt that one before the Chairman cuts me off.

**Mr Marchese:** Ms Zwicker, thanks for your presentation. You raised a few issues that touched me a little bit: the acknowledgement that you are a woman with privilege. I think you mean that vis-à-vis those who have less than you do, and there are many in society.

That twigs me to another thought, that policymakers often create policy from a position of privilege and power.

**Ms Zwicker:** Of course.

**Mr Marchese:** They dictate policies for the rest of us. I argue this paper doesn't help the most vulnerable people; in fact it hurts them. This paper wasn't designed for tenants — that's a big lie — this paper was designed for landlords. That's quite clear from many of the presentations. Mr Babcock was proof of that. He was very happy with the proposal and hoped they would go further.

**Ms Zwicker:** I wanted to be here for Mr Babcock. I had to make dinner for my son.

**Mr Marchese:** It's a shame that you missed it. The other point you made was on the myth about believing that if you want anything, you can have it. They believe that very strongly. That's why we're in trouble.

**Ms Zwicker:** I'm hoping that tonight, by my sitting here as a sole-support mother, you begin to realize that we want more out of life. Many of us strive, and because of my background I am able to just do it. There are times, believe me, that I don't think I can and there are times that I have raised my voice with my son when I shouldn't be raising my voice. But I have what it takes to say I don't care. I'm doing something. No one is going

to look down on me. There are people who don't have the personality, first of all, the background, the education, the intelligence that I have, and I feel for those people.

I think we need to get away from the generalizations we make about single-parent families. I honestly don't believe that any want to be in that position, and if they do there's something wrong or there's a reason for them wanting to do that.

I hope you don't think I'm whining. I just wanted you to hear me. I really appreciate it.

**Mr Preston:** You did an excellent job.

**Ms Zwicker:** Why is Gary Stewart not here? I am really upset. Can you pass that on?

**Mr Parker:** He is out in the hall speaking with another presenter.

**Mr Hardeman:** Thank you very much for your presentation. I'm not sure we can answer all your questions in two minutes but I would like to attempt to answer at least some of them. If you can go to the great difficulty or the task of bringing them to us, I would like to try and answer.

First, I think we were told as a government, by both tenants and landlords or providers of the entity, that the system presently wasn't working, that something needed to be changed. In areas where we have a very low vacancy rate no one is putting any money into the buildings. The present act may protect the tenants' rent but it sure isn't protecting the quality of the infrastructure that people need to live in. In the process of preparing the discussion paper, we are trying to find ways to get the private sector to invest in the rental market and at the same time protect tenants from unfair rent increases.

**Ms Zwicker:** But if —

**The Chair:** We haven't got an opportunity for interchange. The decision was that Mr Hardeman will answer these questions; he's going to answer them for you.

**Mr Hardeman:** I think the other issue was tenant protection as it relates to enforcement, and you questioned whether that could not be done under the present system. Yes, we believe it could be. Enforcement policies as they relate to property standards could be added on to the present tenant protection act, but doing so would not address the need for investment in the housing market, so it's all part of the whole package. We believe that enforcement and the ability of the bylaw enforcement officer to enforce and charge based on the infraction, as opposed to issuing a work order and giving sufficient time for that to be corrected, will speed it up and will provide protection for the tenant to find improvements for the building.

The government is quite prepared and happy to hear you make presentations. As was mentioned in an earlier presentation, it is a discussion paper. We are looking for suggestions on how to improve the system to provide greater protection to tenants, but also to encourage the market to build the type of accommodation that you and others like you, all tenants, are entitled to.

**Ms Zwicker:** I hope I can believe your words.

**The Chair:** Thank you very much, Ms Zwicker. We appreciate your input and we've enjoyed your presentation.



Our next presenter is Sol Robbins. Is Christopher Ward here?

We'll recess for five minutes.

*The committee recessed from 1918 to 1940.*

**The Chair:** In view of the fact that our last two presenters have not shown up, we will adjourn our meeting.

I thank the people of Peterborough for their input. We've enjoyed our day here. We appreciate your coming forward and giving us your input.

We are now adjourned until 9 o'clock in Hamilton tomorrow.

*The committee adjourned at 1941.*















## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
\*Mr Ernie Hardeman (Oxford PC)  
\*Mr Rosario Marchese (Fort York ND)  
\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
\*Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello  
Mr Gerard Kennedy (York South / -Sud L) for Mr Grandmaître  
Mr John L. Parker (York East / -Est PC) for Mr Young  
Mr Peter L. Preston (Brant-Haldimand PC) for Mrs Ross  
Mr Bruce Smith (Middlesex PC) for Mr Flaherty  
Mr Wayne Wettlaufer (Kitchener PC) for Mr Tascona

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell, research officer, Legislative Research Service



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of Ontario**

First Session, 36th Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Friday 30 August 1996

**Journal  
des débats  
(Hansard)**

Vendredi 30 août 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Friday 30 August 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Vendredi 30 août 1996

*The committee met at 0900 in the Sheraton Hotel, Hamilton.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to the standing committee on general government hearings on proposed changes to rent control legislation. We are happy to be in Hamilton on this lovely summer morning, the beginning of the Labour Day weekend. We're here this morning to listen to what the people of Hamilton have to say and give us some input into our deliberations.

Each presenter is allowed 20 minutes. We're very tough on the time frames because we do have a full day and we believe very strongly that we respect people's times and they should be allowed to present at the time that's allotted to them.

HAMILTON AND DISTRICT  
APARTMENT ASSOCIATION

**The Chair:** Our first presenter this morning is the Hamilton and District Apartment Association, represented by John Bruno and Derek Lobo. Gentlemen, the floor is yours.

**Mr John Bruno:** Good morning, members of the committee. My name is John Bruno and I am and have been executive director of the Hamilton and District Apartment Association since it was formed in 1960. To my right is Derek Lobo, our past president, who will make our presentation, but first I would like to tell you about our association.

We are the oldest and the largest association of its kind outside of Toronto. Our area consists of Mississauga, Oakville, Burlington, Hamilton-Wentworth, Brantford and right down to the Niagara Peninsula. We have in excess of 400 members, making up about 35,000 units. Our association, being the oldest in Ontario, is made up of landlords, property managers, financial institutions, and suppliers to our industry.

Our association, as stated, was formed in 1960 to assist landlords and their tenants to settle disputes, a service that has been ongoing up to the present. We, as an association, also hold seminars not only for landlords and property managers, but also for our superintendents. In fact, our association was instrumental in assisting some of the community colleges with their property management courses and course of studies.

Our association also has a referral information service that will assist developers who might like to build rental accommodations in our area. To this end I can recall a couple of years ago a developer by the name of Quantum

Developments, an out-of-province company, requesting information. Our office forwarded to them copies of the Landlord and Tenant Act, the rent regulation act, and the Rental Housing Protection Act. Needless to say, they did develop, but in another province — too much regulation. It is strongly suggested that all acts pertaining to our industry be reduced and refined.

In closing my portion of this presentation, it is important to remember the entire province is not called Toronto and the best tenant protection is ample accommodation.

I would now like to turn the floor over to Mr Derek Lobo, who will continue with our presentation, and we'll be happy to answer questions upon his completion.

**Mr Derek Lobo:** Good morning. My name is Derek Lobo. I'm the past president of the Hamilton apartment association. For a number of years I worked as a rent review consultant. I also wrote a manual back in 1988. It was titled *How to Take a Building to Rent Review*. It's 200 pages and it was a guide for landlords on how to fill in their application, how to go through the rent review process. Interestingly enough, the largest buyer of the manual was the Ministry of Housing at the time. In the last few years I've worked as a sales and marketing consultant to the apartment industry and I'm also a small landlord.

I've been watching the hearings on television and the presentations were very similar to the rent control hearings that went on in 1992. This is a highly polarized issue and it's a highly emotional issue. Everyone is using dramatic language. We hear people describing their buildings as "hell-holes," "deplorable conditions" etc. I really think we've got to get down to business in this province and let's just stop the nonsense.

This rent control legislation doesn't have that much to do with reality. I really think it has a whole lot to do with politics. Since 1975, there have been five pieces of rent control legislation. It seems that every time there's a change in government, there's a change in rent control legislation, if I'm counting correctly. You're all trying to make the system better, but everyone's trying to mould the system to fit their ideology. It's not working. This legislation is not going to work either. I can probably bet you that four and a half years from now we'll be sitting here going through the same kind of hearing again, if history is any kind of judge.

I think the economists know it, most people know it: Rent controls aren't working. If they were working, we would not be going through this fifth painful regurgitation of hearings and devising new rent control policy.

My guess is that you're all good people and that you want to do the right thing, but I think the answer to the



right thing is difficult. What I'd like to do is just share with you some of my experiences.

I worked as a rent review consultant for a number of years and saw really an incredible bureaucracy. There was a lot of taxpayers' money being wasted. It's a system that's very bureaucratic and it's filled with many, many petty things that really pit tenant against landlord. It forces confrontation.

More recently, with the recession in Ontario, landlords have suffered unprecedented vacancy rates and I changed the focus of my business. I now help apartment owners solve their vacancy problems. I teach them about customer service. I teach them about marketing. I teach them about direct selling. In fact, my company has 30 people in it and our staff only go into buildings and solve vacancy problems. So if you're an apartment owner with 50 empty apartments, I parachute in a team of people and we lease it up for you. This has been a growth industry for us; there are that many vacancies in Ontario. As I said, we have 30 people who work in apartment buildings between Sarnia and Ottawa. Five years ago, this business didn't exist. We work for a number of companies, including companies in the private sector and the non-profit sector, representing about 150,000 suites anywhere between Sarnia and Ottawa.

There are a number of myths in the industry which I'd like to address now.

**Myth number 1: Keeping rents low using rent controls helps the poor.** Indeed there are some buildings — they are a minority, a significant minority of buildings in Toronto, where the rents are significantly lower than the marketplace. Let's say the market could charge here, but the rents are artificially kept down; because of rent controls they're kept here. These cheap apartments are not advertised. They're typically not rented to people on social assistance and they're not rented to people on family benefits. These cheap apartments are rented by word of mouth and almost always go to people with good incomes. I know this. I work in the business and I see it all the time.

A turnover rate of 25% annually does not mean that all apartments are going to turn over in about four years. Expensive apartments turn over more often, sometimes annually; below-market-rent apartments turn over very seldom. They're a bargain. People don't give them up. These buildings, the buildings with the lower rents, are typically tenanted by affluent seniors and professionals. They seldom come on the market and they're filled by word of mouth. They're not going to the poor.

**Myth number 2: There's a perception that high rents bring affluent residents and low rents bring less affluent residents.** I think everyone in this room is familiar with the Jane-Finch corridor in Toronto, correct? It has a reputation. Would you think that the building at the corner of Jane and Finch would have high rents or low rents? My guess is you'd think that the rents were relatively low. They're not. They're very high. The rents for a three-bedroom apartment are well over \$900 at the intersection of Jane and Finch.

In reality, these buildings rent apartments to people who are economically distressed and to a high percentage of visible minorities. Quite frankly, these buildings with

the very high rents rent to people that other people don't want to rent to, the hard-to-house, and these people wind up overcrowding, sharing apartments and paying a very large percentage of their income in rent. They're not benefiting from those low-rent apartments that are being tenanted by affluent seniors and upwardly mobile professionals. These people don't have a choice. Rent control and the lack of supply in that area of Toronto have put them at the mercy of the market.

The point here is that suppressing rents artificially in some older buildings in Toronto does not benefit the people you think you're protecting. Indeed there's really no way for you to protect the truly needy other than a healthy marketplace with lots of vacancies where rents start tumbling. Rents are tumbling in Ottawa, they've tumbled in London, they're tumbling in Hamilton. This is the free market working. That's the best protection for the poor.

**Myth number 3: CMHC data is accurate.** It's not. CMHC data is useful but it's grossly understated. Let me give you a specific example. In Hamilton there are approximately 43,000 apartments. CMHC states the vacancy rate around 2%. That would mean there are 882 empty apartments. I work in Hamilton. Right now I'm working in four buildings, and in those four buildings alone there are 280 vacancies. Based on CMHC numbers, one quarter of Hamilton's vacancies are in these four buildings I'm working in? I don't think so. The vacancy rate is significantly higher. My educated guess is that it's probably 4% to 5%. If you want more proof, pick up the *Hamilton Spectator* on Saturday and count the number of ads. There are 600 ads in the newspaper advertising apartments. That doesn't make sense: 600 ads for 882 apartments? That would mean in almost every apartment there's just one in every building. You see what I mean?

Now, why is CMHC data wrong? Quite frankly, I think landlords just don't participate in the survey. We're overregulated. We sort of hate bureaucrats. When the CMHC guy calls up, we tend to hang up and we tend to understate our vacancies.

Let me give you another example. We worked in the city of Welland, where the vacancy rate was published around 4%. I happened to work for one of the larger landlords in Welland who did not participate in the CMHC survey. I convinced him that he should participate in it, and once he did, the vacancy rate jumped up to 7% when he put his vacancies in it. So these numbers can get skewed very easily based on sampling technique, and it's particularly easy to get skewed in smaller cities.

**0910**

**Myth number 4: Rent controls keep rent down.** Well, welcome to Hamilton, where rent controls are really quite irrelevant. They're also irrelevant in London, Sarnia, Ottawa and Kingston. In most cities across the province landlords are not even able to charge the maximum rent permitted by rent controls because of the marketplace. In Hamilton, what's keeping rents low is the marketplace, not your rent control legislation.

**Myth number 5: Previous rent control regimes resulted in huge rent increases to residents of 200%.** In 1992, the NDP casually threw around the figure of 200% rent increases when indeed the average rent increase was 11%.



Everyone's been playing footloose and fancy free with the numbers in this debate.

Myth number 6: A modified rent control system with exemption for new buildings will encourage developers to build. A number of our clients are developers and I've often asked them, "What would it take to get you to build again?" because we're never going to solve the problem in this province until we get people building apartments and we have an oversupply. An oversupply creates competition and keeps rents in check. There were many answers, some that you've heard from other people who are more qualified than me to speak on it — lot levies, land prices, unfair taxation etc — but it always came down to one core factor. They would say as follows, and I'm quoting: "We can't trust the government any more. We've been lied to too often."

There's been retroactive legislation. They were promised that certain buildings would be exempt from rent controls that were retroactively brought under rent controls. I don't need to go through the whole history of what's happened in 20 years, but there have been many times where promises have been gone back on. I really think you would be a lunatic to believe that if you built a building now, it would be exempt from rent controls forever. The message from the development community is, "We just can't trust the system any more because it's changed too often." Five pieces of legislation in 20 years is probably a record for any kind of legal system or any kind of process.

We have to stop kidding ourselves. This is a political process and I don't think it has anything to do with economics and social justice.

There are varying points of view here from the different members of the committee. The NDP has oftentimes talked about the oppressor and the oppressed. They have an extreme bias on this issue, and I think for the purposes of this discussion, because of their bias, they are irrelevant.

The current government, I think, has recognized the folly of rent control legislation. You've tried to come up with a balanced piece of legislation, but I believe that it's fallen short. I want to ask you this question: Do you, members of the government, really believe that the opposition, if they come to power, will be able to keep their hands off this legislation? Let's say you pass this legislation. If they come to power five years from now, do you think they can resist tinkering with it and making it tougher, changing it etc? My guess is no, based on the last 20 years.

So tinkering with the system is not the answer. It's just too — and I mean this with all respect — politically sensitive an issue for politicians to leave alone. I think the answer would be a systematic dismantling of the rent review system during your mandate. You have an opportunity here to rid Ontario of 20 years of legislation that has been counterproductive, that's been a drain on the taxpayer. It really has not served any purpose other than creating a few low-rent apartments for the affluent.

I have a couple of comments on the discussion paper. How am I doing on time?

**The Chair:** You've got about seven minutes left.

**Mr Mario Sergio (Yorkview):** Leave time for some questions, will you?

**Mr Lobo:** Absolutely, Mr Sergio.

The concept of decontrol and recontrol isn't going to work. It's going to create a disparity in rents that's going to get exacerbated over time. Let me give you an example. In 1975 when rent controls were brought in, apartments charged various rents. There was no rent control. So let's say one apartment was \$500 and one was \$550. Then those rents were frozen. Between 1975 and 1996, those rents were increased by a fixed percentage, so that \$500 rent didn't grow as fast as the \$550. Is everyone with me? These rents kept diverging. So you'll find buildings in Toronto now where you've got one apartment for \$600 and one for \$700, exactly the same apartment. You'll find buildings in Toronto and in Hamilton where a two-bedroom apartment is cheaper than a one-bedroom apartment because you've built in this inequity.

Project out five years from now. We've got some decontrol and some control, so you're going to have apartments with different rent levels. These guys come back into power, put on rent controls, freeze them again, and the disparity is going to be worse and get worse. Do you see the point? It's just getting worse and worse, and at some point you've got to say, "We've got to stop this."

Let me suggest to you a solution on decontrol. They did this in Nova Scotia. When they decontrolled apartments they said, "When a resident moves out, you can raise the rent to the market." They were worried about tenants getting gouged, landlords taking advantage of them etc. Basically they said — it's a small province; everyone knows everyone — "If you guys do this, we're going to slap rent controls on you again."

Here's what I suggest. When you decontrol an apartment, you leave it uncontrolled. If you see that there are abuses in the system, put in some kind of hook to come back in and retroactively roll them back. At least that way, within five years what will happen is that we'll essentially be decontrolled. If another party comes to power, this won't be a political hot potato any more. It's only a political hot potato when it's on the books, when there's a piece of legislation there. I think if you could wind down rent controls in your mandate, there's a real opportunity to be rid of rent controls forever.

The second thing is, when you do create the system, please don't make it bureaucratic and hard to understand. I don't necessarily want to write another book.

That concludes my presentation. We look forward to your questions.

**The Chair:** We've got about a minute and a half.

**Mr Rosario Marchese (Fort York):** Mr Lobo, there is no doubt that you're over there and I'm over here. That's absolutely clear.

**Mr Lobo:** Yes.

**Mr Marchese:** And there's clearly no doubt that this paper was written for people like you. There's no doubt about that. There's nothing in here for tenants; there's absolutely everything here for landlords.

Can you tell me something? We have no time to put too many questions, but this system forces confrontation. You're saying to those friends of yours, "Deregulate



completely and that will bring about a fair, balanced system between landlords and tenants." Is that what you're saying?

**Mr Lobo:** Absolutely. Why do you think the rest of North America can live without rent controls and only Ontario has rent controls? Is the landlord in Ontario this rapacious beast who can't be trusted? How do the rest of Canada and most of the United States function without rent controls? Answer that, please.

**Mr Marchese:** They function, by and large, because they have weak governments that don't have the fortitude to deal with this.

**Mr Lobo:** No, we have weak governments.

**Mr Marchese:** We have bad governments. Mr Lobo, it's quite clear that tenants, everywhere we've been, disagree with you completely. The only people who agree with you are the Tories and the landlords. That's the pact you have.

**Mr Lobo:** That's absolutely wrong. I think the NDP's view is, "Our constituent is the tenant; the hell with everyone else."

**Mr Marchese:** That's not true.

**Mr Lobo:** Every kind of economist — I think behind closed doors the Liberals will say, "Look, this system isn't working."

**Mr Bart Maves (Niagara Falls):** Thank you very much for your presentation. It sums a lot of things up very well.

You mentioned that in Hamilton, as well as every other community we've been in, actual rents right now are way below maximum levels. That's an indication that the market is actually protecting people better than rent control would, because tomorrow a lot of landlords could increase their rents by a large amount to get to the maximum level.

**Mr Lobo:** Absolutely. If you took off rent controls in Hamilton today nothing would happen. Do you know what my guess is? Rents would actually go down. Here's what happens every year: Every year the government publishes a statistic that says, "You can raise your rent 2.8%." We've got the tenants believing that the rent should go up 2.8%. So it's a no-brainer. You're saying, "Here, it's 2.8%; Bob said so," or "Rosario said so," or you guys said so. The problem is, we've got so ingrained with this rent control system of annual guidelines. This should be like any other commodity where the price goes up and down based on the market.

**Mr Sergio:** I think you're living in their world, with all due respect, sir. You're the first one in two weeks of hearings who has been telling us that the free market is keeping rents down. You are the first person who —

**Mr Lobo:** I would have been watching the same hearings as you have.

**Mr Sergio:** Just a minute. I'm asking a question. Hold it a second. I only have a minute and a half.

I represent the Jane-Finch corridor, and let me tell you there are people who can't look after themselves. There are poor people in need of assistance, handicapped physically and mentally. There are people who have received a cut of 21.6%. What they get is less than what they have to pay for rent. You tell me: In your pro-

fession, with your experience, what would you do to help those people?

**Mr Lobo:** Right now those people aren't living in those low-rent apartments. That's the point.

0920

**Mr Sergio:** Where the heck are they living?

**Mr Lobo:** They're paying high rent —

**Mr Sergio:** You're living in a different world, sir.

**Mr Lobo:** No. They're sharing —

**Mr Sergio:** Oh, please.

**Mr Lobo:** Let me give you a really simple scenario. You're an apartment owner and you've got one empty apartment.

**Mr Sergio:** You've got the poorest people living in the crummiest Ontario Housing Corp units.

**The Chair:** Thank you, gentlemen. We appreciate your input.

I would like to request from the audience — you may or may not agree with everything that's going to be said, but basically the dialogue is between the presenters and the members of Parliament. I ask that you respect the right of the presenters to put forward their ideas and the right of the people up here to ask them questions.

#### McQUESTEN LEGAL AND COMMUNITY SERVICES

#### COMMUNITY LEGAL SERVICES OF NIAGARA SOUTH

**The Chair:** Our next presenters represent McQuesten Legal and Community Services, Madeleine Hebert, staff lawyer, and Jack Gillespie, director of community legal services. Good morning. Welcome to our committee. The floor is yours.

**Mrs Madeleine Hebert:** Good morning, Mr Chairman. My name is Madeleine Hebert. I'm a staff lawyer at McQuesten legal clinic. I'd like to clarify that my colleague Mr Gillespie is not working for McQuesten legal clinic. He's from Welland. He's from the Niagara South legal clinic. I asked him to join me this morning so that we would have a different perspective, a more rural perspective. It seems like a lot of the presentations are urban-oriented, and I was hoping that we could have a more diversified view.

The McQuesten legal clinic is one of 74 clinics in Ontario. We specialize in an area of law that is known as poverty law. One of the main areas we practise in is landlord and tenant. We often represent tenants in Ontario Court (General Division). Here in Hamilton we have a duty counsel program and we share it between the three clinics. We do rent control on occasion and we also do Small Claims Court applications which are often related to landlord and tenant problems.

Our presentation today will focus on pages 7 to 10 of the discussion paper. We'll be among the few who will not talk about rent control. This paper proposes a different dispute resolution system, and we feel that is a major change in Ontario and we'd like to make some comments on that aspect.

If we look at the judicial system as it is right now with respect to landlords and tenants there are three areas of remedy, which are Ontario Court (General Division), rent



control and Small Claims Court. This paper focuses on the fact that there'll be a one-window access. That is impossible unless you amalgamate the Small Claims Court. A lot of contractual issues are dealt with in Small Claims Court, mainly when tenants are out of possession or prior to tenancy. Those are dealt with by Small Claims Court. So believing that you can do a one-window access legally is not possible.

The other aspect I want to bring to your attention is the fact that there are not that many litigated problems in the area of landlords and tenants. It is mostly a system based on information.

At our clinic we provide two types of services. We call one summary advice, which is information over the phone, as well as representation if the individuals meet our financial criteria. The summary advice we get in landlord-and-tenant is about 50% of our business. We also do workers' compensation, income maintenance and other areas of law, but the main area of information request is in landlord-and-tenant. As you know, rent control also gives some information.

If we look at their numbers, they've received for the Hamilton office 40,000 requests for information. If we look at the number of applications received, for 1995 there were 227. If we look at our clinic, in 1995 we had about 30 files that went to trial out of 1,200 information requests. So the numbers of litigated matters are not that high. In the province there were 40,000 applications in Ontario Court (General Division). If you look at the number of units in the province, I'm sure there are about a million — you must have heard some numbers during the presentations — I'm not sure about that, but I'm sure there are a lot of rental units in Ontario, and if only 40,000 went to court in the province, that's not a very large amount. You are revamping a system that may represent just a minor system in terms of the legal aspects of doing this new rent control tribunal.

The other aspect I wish to bring to your attention is that there is this perception that the current system is slow. In Hamilton, Ontario Court (General Division) is extremely fast. If you file your application on a Friday afternoon you will be before the court the next Wednesday. That is four banking days later. Often there'll be a one-week adjournment because legally it's very difficult to prepare your case in four days, but it is possible to be heard that very same day. The list is often around 100 applications and they're all dealt with on the same day.

I look at the example on page 8 in your discussion paper, the tenant who is aggressive and anti-social, and it takes five months for her to be evicted. Not in Hamilton. I can assure you that this matter would be dealt with within six weeks, easily. For instance, if last night there was an incident and the police were called, the tenant can get a notice of termination today and would have seven days to rectify the situation. If there's another incident, the landlord can give her a second notice of termination and go to court immediately and be heard within a week to 10 days. If the tenancy is terminated, if the judge feels there are grounds for the application, the time frames are very fast. If it works in Hamilton, I don't know why it couldn't work anywhere else in the province.

I suspect that the five months may come from another jurisdiction. I practise in a small area in eastern Ontario, and in that area it was slower, but it was slower because the judge who was hearing landlord-and-tenant applications had to deal with murders, family law, a lot of other jurisdictions, and simply couldn't find the time in his docket to hear a landlord-and-tenant matter. But that's not the fault of the Landlord and Tenant Act. It was the fault of the judicial system and the lack of resources in those specific areas. Hamilton, for some reason, has managed to find the resources and it's quite fast. That was the second point I wanted to make.

The third point is with respect to public access and efficiency. The paper raises the issue, should we have some major offices, eight or 10 in the province, or should we have local offices in the regular Ontario Court (General Division)? I believe it's very important that it remain close to the jurisdiction where the problem has started. It is practically impossible to make a system work if a tenant or a landlord has to travel 100 kilometres to go to court.

You suggest that you want to put it with an agency or some other arrangement. I would suggest that you perhaps attach it to Small Claims Court. That would give both parties access to your new system, and if the new system can't deal with the problem, it's probably going to be a matter of Small Claims Court, so it will be in the same building. The courthouses are the best local access points and, with the laws being changed in family law and in criminal law, I'm sure there's going to be court spaces. There's been a lot of deregulation of some of the criminal offences and therefore there'll be more court space. I'm sure you can find some space in that building and it would lower the costs.

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If you wish to put it with a governmental agency, I would perhaps suggest that you put it with the consumer and corporate affairs registry offices. They usually have an access point in those buildings and that could be a point of access for the parties. But it's very important that it not be limited to eight offices or 10 offices, as is the current case with the rent control offices. They are not used outside of the city. If you look at the applications for the rent control office in Hamilton, most of them are generated by Hamilton residents. Nobody from Halton Hills will drive an hour to come to Hamilton and anybody else in the outskirts won't; it's too far away. They usually rely on the Landlord and Tenant Act to resolve their legal problems.

I will let my colleague speak to the other issues with respect to the legal aspects.

**Mr Jack Gillespie:** Thank you very much. Our paper's been presented and has been submitted and it indicates that I'm the author of that report from the southwest clinics and lawyers doing work in that. That was a joint effort. There were four other lawyers who worked on it, so I certainly don't want to take all the credit, despite the fact that my name's on there alone.

I'm going to just highlight a few of the points regarding the substantive aspects of the law which the New Directions discussion paper asks us to look at. One of them is maintenance and repairs and there's a lot of discussion between pages 3 and 5 of that discussion paper



about passing a lot of those powers down to the municipality where the property standards officer could then have enhanced powers and deal with all the problems that tenants may have regarding repairs. I think you have to remember that we're talking not about commercial tenancies; we're talking about residential tenancies. By and large, we're not talking about the affluent people who we've already heard are taking over all the low-rent places. We're talking about people who don't have money, who don't have the wherewithal on their own to deal with these difficulties, so they have to go somewhere. Currently, they may go to the rent control system or the courts, and there's talk of sending them over to the property standards officers.

We've also seen an awful lot of things being downloaded to the lower levels of government and the resources being restricted. If this system's going to work, putting it to the property standards officers, (1) we have to have the political will at each local municipality or a method to make that political will exist to enforce these methods, and (2) we have to have the resources, because if we have lots of legislation, it looks great on paper; if it doesn't work, if the resources aren't there to make it work, it doesn't help at all. We're going to be just having a worse system.

Also, at page 6 of the discussion paper it indicates that the substantive issues in part IV of the Landlord and Tenant Act — those are the areas dealing with residential tenancies — other than the areas that they've thrown open for discussion, aren't going to be affected by any of the proposed changes. One of those sections which isn't dealt with is repairs and maintenance. So we may still have a split system where repairs and maintenance may be under the control of the new agency, if one exists, once put together and there has to be a mechanism for allowing tenants to take some steps to get repairs done. I'm talking about serious repairs. I've been in this business for in excess of 15 years and I think I've got the experience and the objectivity to see when it's necessary, and I've come across a lot of cases. I would urge that aspect to be maintained and be given some substance.

The paper talks about subletting. It doesn't talk about assignments and it doesn't address the differences. I think clarification has to be made to show that there is a major difference.

Another aspect that disturbs me is when I see it being mandatory that a landlord, such as in British Columbia, has to consent to a sublet or an assignment. First of all, there's nothing mandating that the landlord has to answer, so by the landlord's silence, that could prevent a very necessary sublet, something that a person needs to move, say for a job purpose, and he's found somebody else to move into his apartment, a reasonable person. The landlord, by their very absence from answering, can put an end to that person's ability to get someone in. I would suggest that the way to deal with that is to put a positive duty on the landlord to answer within a reasonable time so that everybody knows the rules of the game, and that there be a penalty of some nature, such as the elimination of the tenant to continue to search for somebody else, if the landlord doesn't follow through. It's a simple answer to say no, and then they can go and deal with whether or not that was reasonable.

Last month's rental deposit: That's an area that creates a lot of problems. The law reform commission, back in the late 1960s, found that it was unnecessary to have more than a last month's rental deposit, to a maximum of one month's rent, to protect the landlords. That has never changed. You should keep in mind that the tenant as a consumer is one of the very few individuals who has to pay before they get anything. When we go and buy a car, you pay the money, we get the car. What they do is they have to pay before they get the place. They're paying at the beginning of the month, not the end of the month, contrary to people who own a house and are paying on a mortgage. They pay at the end of the month.

Another difficulty I've seen over the past 15 years concerns the landlord holding that deposit. That deposit should be clearly defined to be held in trust. If a landlord goes under financially, either they go bankrupt or the mortgage company takes over the house or the landlord just takes off, it is incredibly difficult for that tenant to ever get that last month's rental deposit back. Quite often, that represents a substantial portion of the tenant's income. For a person who's on assistance, that can represent more than a month's assistance. So it's crucial that they be able to access that money.

I would suggest that much like the British Columbia system, the moneys be held in trust by a private commercial institution such as a bank, much as a trust account to the lawyer has. The landlords would get out of the obligation to pay the 6% interest, which they find onerous — which certainly represents a very cheap way to borrow money, in my opinion. Then there would be a third party who's holding the money. The tenants would be guaranteed, if they're entitled to their money back, to get their money back and a system could be put in place where either by mutual consent that money is to be utilized or the agency or the courts or whoever is going to make these decisions would then have to go and make a decision who's going to get what portion of that last month's rental deposit. When you leave the money in one person's hands, it gives them an awful lot of power.

Finally, I'll just address the issue of privacy. Privacy has been glossed over, I believe, in this document. Privacy is fundamental to where someone lives. I think the methods have to be maintained to protect that privacy. I think we need more definition as to what is going to be done in the discussion paper before I can comment on that meaningfully.

**The Chair:** We don't have any effective time left for questions, with only a minute left. Did you have a final comment you wanted to make?

**Mrs Hebert:** The discussion paper is quite vague on this new dispute resolution system. We would hope once this system is established, if it ever is, that there's more input to look at the details. The points raised in the discussion paper are quite vague on appointment of the adjudicators, matters that are not directly impacted on the tenant who applies to this new system. We would hope to have another opportunity to give more detailed submissions on those points.

**The Chair:** Thank you very much. We do appreciate you coming this morning and giving us your input.



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### HAMILTON AND AREA COALITION OF TENANTS' ASSOCIATIONS

**The Chair:** Our next presenter is the Hamilton and Area Coalition of Tenants' Associations, Earl Maycock, the past chair, Gord Jackson, the tenant, and Sarah Todd, a member of the board of directors. Good morning. Welcome to our committee. The floor is yours.

**Ms Sarah Todd:** The Hamilton and Area Coalition of Tenants' Associations, HACTA, is a non-profit volunteer-based organization and an alliance of tenants, tenants' associations and honorary supporters. HACTA provides tenants with information on their rights and responsibilities and assistance with organizing tenants' associations. HACTA also advocates for laws that will protect tenants.

HACTA formalized as a tenants' coalition in January 1991 and incorporated in 1992. We received funding in 1993, through the Ministry of Housing's community partners program. However, that funding was terminated by the Conservative government effective today.

As with past pieces of legislation introduced by previous governments, we are commenting on this government's changes to tenants' rights. We believe that this package is not, to use your words, tenant protection. In fact the name "tenant protection" is very misleading. This package, as we will explain further, will see an end to rent control in Ontario, result in less affordable rental housing, more evictions and less maintenance carried out by landlords. Tenants do not need this kind of protection. All 3.5 million of us in this province need the same opportunity that every other citizen of this province should have: the opportunity to find and keep affordable, good-quality housing.

This package makes a number of assumptions that the government calls cold, hard facts, facts that are not hard or cold at all.

The government says that landlords have no incentive to invest in their own buildings, which are becoming more and more run down. Clearly many landlords choose to keep their buildings in a state of good repair.

The government claims that the removal of rent controls will result in the building of affordable housing. There is evidence to suggest that this is not the case. Under the Rent Control Act, rental units in new residential buildings are exempt from most of the Rent Control Act for five years. Despite this moratorium, there has been virtually no new rental housing stock built in the province by the private sector in recent years. The Hamilton-Wentworth Housing Statement Update found that "much of the apartment stock that was built in the 1960s and 1970s and that now houses a significant percentage of low-income households in cities like Hamilton and Toronto, was financed with federal tax breaks and below-market loans." It appears that rental housing development has never been lucrative for the private sector, so there is no basis for the underlying assumption that the removal of rent controls will lead to the building of new rental housing stock. Why would the private sector step in and develop housing for tenants with low incomes?

Based on our experiences at HACTA working with real people who live in the community, we will reflect upon how the proposed changes to the tenant laws will affect people's lives.

HACTA believes that the government's proposals are designed to effectively end rent control. The proposal allows landlords to increase rents to whatever they can get away with when a new tenant moves into the apartment. Tenants are a highly mobile population. As relationships change, families grow, people begin new jobs or go back to school and for many other reasons, tenants move. The government's own study last fall, the Lampert report, showed 25% of tenants move every year and that during a five-year period, about 70% of tenants move at least once. Consequently, the rental housing market is decontrolled in five years. The proposal staggers the process, but the impact on affordability is the same. The result will be higher rents. Gord Jackson will speak to that a bit further.

**Mr Gord Jackson:** Maybe a bit of history is useful. Rent controls were first started in 1975, a year that saw, after decades of seemingly unending prosperity, a prolonged period of uncertainty set in. The Conservative government of Bill Davis, responding to highly publicized reports of landlord price gouging at the time, announced on September 3, 1975, a rent review policy. On September 8, Davis further announced that the Ontario guaranteed income supplement would be used to cushion for low-income tenants the impact of rent increases. September 13 heralded a promise to protect tenants' rights and to pay tenants' legal costs in fighting exorbitant rent increases.

On October 13, 1975, then Prime Minister Pierre Elliott Trudeau, in a nationally televised address, announced wage and price controls, reversing himself after the Conservatives under Robert Stanfield had actively campaigned on same in the 1974 general election.

All of the foregoing actions beg the obvious question of why. Why did a Conservative Premier feel it necessary to protect vulnerable people from greedy landlords and developers? Could it have had anything to do with the fact that in 1975 Canada saw the arrival of 10.2%, double-digit inflation concurrent with an Ontario unemployment rise from 4.4% to 6.3%? Did the leader of Ontario's ultimate private enterprise party not also take note that from 1974 to 1975, while the CPI rose 10.8%, rents escalated a shocking 31%?

Indeed, why did the Prime Minister feel it necessary to reverse himself after denouncing wage and price controls during the 1974 election campaign? While recognizing that the uncharitable among us might suggest that Mr Trudeau simply let Mr Stanfield take the heat for what he always knew he was going to do, clearly not only was something wrong, but something also had to be done.

Put another way, both men recognized that the marketplace was not working for the good of all, no matter what picture current ideological purists might try to paint. Still, that was 1975 and this is 1996. Are things as bad now as they were then? Aren't we back to pre-1975 economic conditions, making rent controls no longer necessary?



Hasn't unemployment in Ontario at least returned to 6.3%, if not 4.4%? No, it has not. The economy, in spite of low inflation and interest rates, is a basket case with unemployment still hovering around double-digit numbers. Clearly something is still wrong, making the dropping of rent controls an ideological exercise grounded in neither practicality nor so-called common sense. Indeed, in his report, "The Political Economy: Residential Rent Control in Ontario, Research Study Number 12," October 1984, author D.G. Hartle, while arguing against rent controls, did so within the context of "full employment and no market imperfection," the two potentially important offsetting considerations. It seems to me we haven't reached either one yet.

Affordable housing in Ontario considered a right for all and not a privilege for the well-heeled few — a right, that is, until recent Tory good times. Now, thanks to heartless welfare cuts in our still sluggish economy, the notion that 25% of income is earmarked for housing is no longer applicable, not in the Americanized province of Ontario. As has been shown, rent controls were not imposed by a socialist government to make life difficult for landlords and developers. Rather, they were brought in by a business-friendly Conservative government reacting to unacceptable market conditions. Had this sacrosanct marketplace been doing the job many feel they are going to continue to promise to do, no vacuum would have been created. We would not have needed rent controls in the first place if the marketplace had been doing what they're all going to promise they'll do.

Regretfully, the elimination of rent controls, something about which Housing Minister Al Leach has publicly boasted, is just another indication of how low the once decent-minded Conservative Party has sunk with its slap 'em in the chops, knee 'em in the groin approach to anyone but the special interests who can afford the tailor-made pinstripes. However, individuals are willing to fight more strongly to retain a benefit they have obtained than they are for one that they have never experienced. In Ontario, where there are over three million apartment dwellers, 1.9 million of them residing in Metropolitan Toronto alone, the prudent would be cautious before antagonizing such a large constituency of people.

**Ms Todd:** In Hamilton's tight rental market there is likely to be upward pressure on rents from many buildings. Higher rents have a real impact on real people. Incoming tenants will be paying more rent under the government's proposals than they would have under the current law. The following are examples of how higher rents will impact people.

People with low incomes are generally accessing the lower end of the housing market or housing that is inadequate. Because the housing is of low quality, many people are forced to move from one place to another in search of better housing. Every time they move, they will be faced with looking for accommodation that is no longer subject to rent control.

Mental health consumers who are facing poverty are often desperate for adequate, affordable housing in order to gain the stability which is necessary to participate fully in society. In a province without rent control, the ability

of mental health consumers to find that stability will be threatened, making it difficult for them to sustain themselves.

Higher rents will present limited options for our senior citizens, many of whom are already living in inadequate housing. Many seniors will not be able to leave their current accommodation because they face a market that is decontrolled. Also, the fear that some seniors experience around landlords who are already harassing them to leave their units will only increase. For seniors who have been living in units for long periods of time, who have developed a vital friendship network in their units and who find the physical strain of moving difficult, the increased potential for landlord harassment is frightening. In addition, the process of having to submit to a government bureaucracy to have this dealt with is difficult.

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Women attempting to escape abusive situations in their homes often need affordable housing quickly. Many women leaving abusive situations already feel economically trapped, and the decrease in affordable housing options would only exacerbate this situation. The loss of affordable housing potentially leaves women feeling trapped within abusive households because they are unable to access other housing options.

Financial discrimination is the process of excluding people from accessing their right to housing on the basis of their income. In a society where there are not enough jobs for everyone and where the work women do in their homes is not financially rewarded, certain citizens find themselves without adequate resources to gain shelter.

Many tenants cannot afford rent increases. For example, it is estimated by the ministry that 80% of social assistance recipients rent in the private market. As well, 30% of all tenants are receiving social assistance. In October 1995, social assistance shelter allowances were reduced by 21.6%, with the result that most social assistance recipients are already spending more than their maximum shelter allowance. In the Hamilton-Wentworth Housing Statement Update 1995, reference is made to a 1992 study of general welfare assistance clients which showed that over one third spent over 70% of their income on shelter, while only 15% spent 30% or less, the level generally considered affordable. The region's department of social services conducted a similar profile in the fall of 1995 and found the situation would worsen as a result of the reduction to general welfare assistance benefits.

Tenants will experience further financial hardship because the government wants to eliminate the costs-no-longer-borne provision of the current law, which Earl will speak about.

**Mr Earl Maycock:** I would like to speak about the 3% above the guideline, which I believe most people misunderstand. This 3% above the guideline was granted to our landlord in 1992. As we understood it at that time at the hearing, this 3% would apply for three consecutive years. What happens is that the 3% is compounded for the three years and it amounted in our particular case to \$57 a month and change. This remains in until such time as the \$2.5 million that were spent in major repairs and lavish renovations to our apartment are paid for. It



remains in there for anywhere from 10 to 25 years. I will never see the end of it.

Another point I would like to make is, if the rent registry is done away with and this law remains in and we gradually come off these exorbitant increases and the above-the-guideline increases, how is it going to be controlled to say in 25 years' time — I won't be here, but for a tenant who is residing in the same building, how are we to say there's going to be \$57 a month come off your rent because way back when the government granted the landlord a 3% above-the-guideline increase? Now the government is talking of increasing that to 4%. This is not 4% that stays on for one year and comes off and another 4% goes on etc. It compounds for three years, which is a tremendous amount when you have 50% of your apartment dwellers seniors. They just can't afford to pay that.

**Ms Todd:** HACTA believes the changes to rent control will set up a situation where some landlords may encourage tenants or harass tenants to leave their units so they can increase the rent. Even the ministry acknowledges that harassment will occur. It is proposing an enforcement unit to investigate tenant complaints of harassment.

CMHC's Hamilton rental market report for October 1995 lists the vacancy rate at 2%. The vacancy rate projected for October 1996 is 1.8%, and 1.6% for October 1997. In a tight rental housing market tenants are particularly vulnerable to landlord demands. In the Hamilton-Wentworth Housing Statement Update 1995, discussion around developing a more competitive housing market acknowledges that the vacancy rates must be at least 3%; otherwise tenants lose the ability to find more appropriate affordable housing. When freedom to choose is lost, tenants are far more vulnerable to harassment.

Our experience suggests that for good reasons, many tenants will not file complaints individually. They are intimidated by the process; do not have adequate information or assistance to file complaints; want the harassment to stop now, and sometimes the only way for it to stop is to leave their apartment; feel that more extreme forms of harassment may occur from a complaint; do not even know of their rights in this area; or may not have the emotional energy to pursue such a complaint. Instead, many tenants will be forced to look for a new apartment in a tighter housing market with higher rents. Furthermore, this kind of harassment will have the largest impact on people of colour, women, senior citizens, gays and lesbians and other charter groups who already experience harassment and discrimination with regard to housing.

Tenant associations have proven to be an effective way to limit harassment from superintendents and landlords. The anonymity tenants get from group action makes it safer for individuals to talk about harassment and do something about it. Furthermore, we would assume that the funding to groups such as HACTA would be a much more cost-effective way to assist tenants to deal with harassment than building a new bureaucracy to address the problem.

The Landlord and Tenant Act piece of the proposal is particularly difficult to respond to because it is not clear from the proposal how the dispute resolution system will work. On the one hand, we believe that taking all land-

lord-tenant issues to court is probably not the most productive way to resolve some situations. On the other hand, because of power imbalances between landlords and tenants, some issues, such as the loss of your home, are worth a court date.

We have concerns about this dispute resolution system. Will a dispute resolution system provide fairness? The system should be an autonomous organization governed by provincial guidelines with knowledgeable, neutral — not political appointments made by the government — decision-makers. It should also not restrict tenants from using it by charging a fee. Furthermore, there should be an appeal process incorporated into the system.

If the government understood tenant protection, it would know that it is crucial for tenants that legislation limit rent increases to a reasonable guideline. Tenant protection does not eliminate a rent control system in five years. It does not increase rents for tenants. It does not set up situations that will result in more harassment for tenants and leave tenants with no solution to stop this harassment. It does not limit the supply of affordable housing options. It does not take away tools such as an order prohibiting rent increases.

When combined with the government's decision to end the construction of non-profit and co-op housing, the possible sell-off of public housing and the elimination of funding to tenant federations, it is clear that this government simply does not care about the housing needs and basic housing rights of tenants in this province. Thank you.

**The Chair:** We've got a quick minute per caucus for a statement or a question.

**Mr Bruce Smith (Middlesex):** Thank you for your presentation. I note your concern with respect to the potential for increased rents. Quickly, I'd like to perhaps have you respond to how you come to that conclusion given the evidence we've seen as a committee by and large that shows that many landlords are in fact not charging maximum rent, that they're well below the maximum allowable rent they possibly could charge, and the fact that the landlords themselves are asking us to retain the maximum rent, in my opinion, in fear that the market will suppress those demands and not enable them to move the rents back up to that maximum allowable position. Can you give me a quick summary of how you feel rents will increase when many aren't charging that maximum allowable right now?

**Ms Todd:** I think having rent controls in and keeping affordable housing options sets that control that stops that market sort of competition that throws rents increasing as the demand — sorry. With affordable housing options in the market currently with rent controls, it makes sure that people keep affordable housing options, because if they charge huge amounts, then they're not going to be able to find tenants. With the loss of non-profit housing and co-ops and other affordable housing options, it will free up the market just to keep competing and increasing rents dramatically.

**Mr Dominic Agostino (Hamilton East):** Just to add to what's been said, I think very clearly from the presentation we have seen that the individuals who may be the most impacted by these changes are going to be seniors,



disabled, individuals on fixed incomes, individuals who have had their welfare benefits cut by 22%. Clearly the most vulnerable in our community and the people who are least able to pay are going to be the ones who feel the biggest crunch. Someone making \$50,000, \$60,000, \$80,000 or \$100,000 is going to feel a bit of pain by decontrol, by removing these rent controls over a five- or 10-year period as people move out, but clearly the pain will be nowhere near the pain felt by someone who is on a fixed income and whose pension may go up 2% or whose welfare benefits have been cut by 20%.

From your experiences and your work, what will happen to these individuals who, faced with horrendous increases, will not be able to afford the accommodation they're in right now? What is their next step and generally what do you see happening to these individuals?

**The Chair:** Unfortunately, Mr Agostino, the question's a little too long. Mr Marchese.

**Mr Agostino:** It was less than a minute on that.

**The Chair:** Mr Marchese.

**Mr Agostino:** Mr Chairman, in fairness the last one went a minute and 30 or 35 seconds with the response. I would hope that you would give that same courtesy —

**The Chair:** Mr Agostino, if you'd been with us for the last two weeks, you'd understand the rules that we operate under.

**Mr Agostino:** Mr Chairman, the last one went a minute and 35 seconds.

**The Chair:** Mr Marchese.

**Mr Agostino:** We were timing the last one and it was a minute and 35.

**The Chair:** Mr Marchese.

**Mr Maves:** Mr Marchese is losing his time now.

**Mr Marchese:** Thank you for the presentation. You've pointed out, as many have, that this is not a protection for tenants. In fact, it's a lie to say this is anything to protect tenants. What it does is to protect the landlord and to give rights to landlords that they feel they have lost over the years. What you've historically pointed out is that they've always had rights and tenants have very little protection. You've heard Mr Lobo, God bless his soul. You were here for his presentation. He said that this system forces confrontation between tenant and landlord. Do you think that by removing rent control somehow we will reach that ideal world of wonderful relations between tenant and landlord?

**Ms Todd:** No, I don't. I think it'll make it worse. It's just going to become more of a competition between landlords and tenants. It's just going to make it more difficult and put tenants in more desperate situations, which exacerbates the emotions of the situation and just makes it more difficult.

**The Chair:** Thank you very much, folks. We do appreciate your input here this morning.

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#### LAWRENCE ROBBINS

**The Chair:** Our next presenter is Lawrence Robbins. Welcome to our committee. Can I just ask the committee something, please? I would just as soon we keep conversations between ourselves and the presenter. You've got lots of time to talk after.

**Mr Lawrence Robbins:** You're not using my time yet, are you?

**The Chair:** No, I'm not, sir.

**Mr Robbins:** Good morning, Mr Chair and other people. This is a déjà vu. It reminds me of the NDP when they had their meetings before rent control. I'm from the Niagara region and I went to their rent control meeting. I was allowed exactly five minutes to speak, and while I was speaking I watched each of them watching the second hand on their watches tick. They didn't listen to a single thing I said. I hope this will be a better committee to listen.

I'm for the complete abolishment of rent controls. I also would like this government to stop funding all these social activists groups. Let them get out and get a job of their own. I work seven days a week to carry that dependant that I call an apartment building. My tenants drive new cars. My tenants go to Florida on vacation. My wife and I both are almost dead from working to keep that building going so we don't lose our home and the building. I am sick and tired of all these freeloaders in this country. I pay the bills, I call the shots and I treat my tenants the best I can treat them. My building is in excellent shape. I invited Bob Rae, I invited Margaret Harrington to come and see my building at any time and neither of them would come.

I'm not going to speak much. I'm going to go to questions because I've had nothing but hell since 1988. I'll answer all the questions.

**Mr Gerard Kennedy (York South):** Mr Leach told us in his opening statement that he thinks landlords have the upper hand right now. He's recommending that tenants consider this legislation because landlords have no reason to care about tenants. This is what he said in his opening statement. I don't know if he meant to say that, but that is what he said and it gives us a sense that we're setting up a conflict situation between landlords and tenants.

Could you comment on how you think this is going to impact the relationships if tenants feel that there's a possibility they could be harassed, if people want to convert to condominiums, and how you feel this will improve the relationships between landlords and tenants, especially if even the minister is saying — and I hear you saying something very different so I would like to hear your answer — that landlords have the upper hand right now and that we need this legislation to create more rental housing so that tenants can have more impact on landlord behaviour.

This is what the minister said in his opening statement to us a couple of weeks ago. Can you comment on the statement and tell us how you see this legislation affecting the relations between landlords and tenants?

**Mr Robbins:** Well, I'm not sure how the legislation is going to end up, so I can't comment on that, but landlords do not have the upper hand. I've had my building demolished. I just finished a rental unit where I had to go in and spend \$5,000 to bring it back into shape after a tenant destroyed my building within the last two weeks. I've had to put it on financing through HFC at terrible rates. My wife and I have to pay those bills again and the tenant just walks away. The tenant is collecting a WCB pension and I can't get my money out of that tenant. He's laughing.



The system is not going to change. A landlord and a tenant will get along fine; you don't want to evict a good tenant. Nobody has ever thrown out a good tenant. If a tenant runs into a little bit of a hard time you work with your tenant. The system should be the same as any motel, the same laws.

I see the Hydro people come down. If tenants don't pay their hydro they put a thing on the door; 24 hours' notice and your hydro is turned off. Why am I any different? Can you tell me?

**Mr Kennedy:** Let me ask you a question about the motel. You sound like someone who takes his business very seriously. You have an idea that you're providing some service to people, you're holding up your end and you're concerned about the law in terms of how it affects you. Most people think of apartments — probably yours too from the sounds of it — as more than a motel. They think of it as a place where they live. They have no choice, usually economically in terms of where they're coming from, and renting is the option they've got. In terms of only wanting government to be a referee when it's necessary, we're looking at why this is necessary now. The government is proposing that it isn't. But it certainly comes down to the fact that it is more than a motel to most people. I'm sorry if you experience tenants that way, but for many tenants this is their home.

**Mr Robbins:** Why do you think the burden should be on my shoulders? It should be on the government's shoulders. Put out the proper social programs. Help the people who need it the most and give them rental allowances. The rest of the people, let them pay their way.

You talk about fair taxation. I have been overtaxed since the Liberal government, through an NDP government and now still through this PC government. I have had legal rental increases allowed under the Peterson government, signed by the Minister of Housing, which were taken away from me. I think this government should reimburse me for my lost income. If you did that to the Indians you would have broken a treaty with them. I don't think I should be treated any different. You should pay me back the money I've lost plus interest. All of you should agree to it.

**Mr Kennedy:** Let me ask you a question about taxes, because apartments are paying more taxes in most jurisdictions than others types of property.

**Mr Robbins:** No. I pay the taxes, not the apartment.

**Mr Kennedy:** You need to pass on some of those costs to the apartment, I assume, to be able to pay them.

**Mr Robbins:** You have no idea. Have you ever owned rental property?

**Mr Kennedy:** Yes.

**Mr Robbins:** Yes? Why don't you own it still?

**Mr Kennedy:** I do. I would appreciate it if you could help me with the question. Do you think it would have more of an impact to change the taxes that are higher on apartment owners, if you like, but on apartment buildings than dealing with rent control? Which would be more beneficial to you?

**Mr Robbins:** They've both got to change. My apartment building is a business. Let me run it as a business. My tenants will vote with their feet. If I lose my business because I'm a bad business manager, shame on me. If I

lose my business because of government regulation, shame on every one of you.

**Mr Kennedy:** Let me ask you a question about the cuts in welfare. You said you're in favour of adequate social benefits so people can afford a place to live. Is that correct?

**Mr Robbins:** I'm saying I'm favour of rental subsidy allowance.

**Mr Kennedy:** Right, and obviously at a reasonable level, so whatever the market is charging. Is that correct?

**Mr Robbins:** That's right.

**Mr Kennedy:** Can you comment on the impact, if any, that you've seen because of the cuts in welfare rates for people to be able to support their housing? Is any of that reflected in your buildings or in the buildings of landlords that you're aware of?

**Mr Robbins:** Sure. There have been vacancies because of that.

**Mr Kennedy:** What would you say to the government in terms of what that does to the marketplace?

**Mr Robbins:** That has nothing to do with the marketplace. The government has got to go to a rental allowance subsidy, okay? That's what they have to do. There are plenty of tenants out there who can pay their own way who are taking advantage of the system. You are all aware of that.

**Mr Kennedy:** I'm just asking. I want to be clear: You would see a system of subsidy available to —

**Mr Robbins:** To the people who need it.

**Mr Kennedy:** To what level of people would that be, in your estimation?

**Mr Robbins:** The government will have to determine that. You could come up with an average rent in Toronto for a two-bedroom, and that's the maximum they'll go. Maybe the subsidy allowance in the Niagara region would be lower because the rents aren't as high as in Toronto. It would fluctuate, but you have to allow a marketplace to work. A market will find an equilibrium. At one time it will be up and it will be down. But economics 101 will tell you that we'll arrive at an equilibrium.

**Mr Marchese:** Mr Robbins, you're sick of the tenant groups, you said.

**Mr Robbins:** I'm sick of all these people who live off government.

**Mr Marchese:** That's another question I was going to ask you later.

**Mr Robbins:** If tenant groups are so important, let the tenants fund them. I deal with my tenants one on one. Besides, for two bad tenants that I've had since 1988, I have letters at home from tenants thanking me for providing them with such clean, safe, warm accommodations.

1010

**Mr Marchese:** I believe that. But you're sick of the tenant groups because they're assisting tenants who might require help?

**Mr Robbins:** They're there fattening their wallets. That's all they're there for. They're not there for the tenants.

**Mr Marchese:** They're not there to help the tenant who is in trouble who is facing a difficult landlord?



**Mr Robbins:** No. They're there to get money to pay their bills.

**Mr Marchese:** So they should really get a good job? They should get a job somewhere else?

**Mr Robbins:** Eliminate them. They're not needed.

**Mr Marchese:** Because the tenant could really take care of himself or herself?

**Mr Robbins:** Why not?

**Mr Marchese:** Sure. Well, the Tories agree with you.

**Mr Robbins:** Are you saying these people are useless?

**Mr Marchese:** Oh no, I'm not saying that. I'm saying —

**Mr Robbins:** Do you look after yourself?

**Mr Marchese:** Okay. When you finish, I'll ask the questions.

**Mr Robbins:** Do you look after yourself?

**Mr Marchese:** Some people can look after themselves —

**Mr Robbins:** Do you look after yourself?

**Mr Marchese:** Okay, Mr Robbins, let's work it this way. I'll ask you a question, you answer, and then I'll answer back so that we can have a dialogue.

**Mr Robbins:** Have you ever owned rental property?

**Mr Marchese:** I understand that only landlords seem to understand landlord and tenant —

**Mr Robbins:** Have you ever owned rental property? You said you were going to answer my question.

**Mr Marchese:** I have a house, yes.

**Mr Robbins:** Have you owned rental property?

**Mr Marchese:** No, I haven't.

**Mr Robbins:** Okay. So you're well experienced.

**Mr Marchese:** What is clear to me —

**Mr Robbins:** You know what you're talking about, don't you? What did you do before?

**Mr Marchese:** Mr Robbins, you probably have four or five minutes of my time. Why don't you just take it and just say whatever you like?

**Mr Robbins:** Okay. How about that? I used to write Bob Rae, and Bob Rae had the decency to write me back. You know, Evelyn Gigantes never wrote me a single letter. She was stuck in a little room somewhere in Queen's Park and never responded to a single letter I wrote her. That's a real government, isn't it? You don't react to the people you don't like. You hide and stick your head in the ground.

You brought in laws. I had a rent increase, as I told you before. You took away from me what was legally mine. You wouldn't do that to the Indians and you wouldn't do that to any other group. Why do you do it to me? I've got bills to pay. I've got responsibilities. I live up to my responsibilities. Why didn't you live up to your responsibilities?

**Mr Marchese:** You have more time.

**Mr Robbins:** I asked you.

**Mr Marchese:** Okay. Either you speak or we have questions and answers.

**Mr Robbins:** Okay. I asked you. Why didn't you live up to your responsibilities?

**Mr Marchese:** Do you notice, Mr Robbins, I'm speaking and you're just ranting on, so we can't —

**Mr Robbins:** I'm waiting for an answer to my question. Why didn't you live up to your responsibility as a government?

**Mr Marchese:** Mr Chair, this individual obviously doesn't want to have a dialogue with me, so he can have a dialogue with his friends over there. Please move on.

**The Chair:** Okay, Mr Marchese. Mr Stewart.

**Mr R. Gary Stewart (Peterborough):** Thank you, sir, for your presentation. I have a couple of questions which we don't hear very often that it appears you're concerned about. It appears that in the presentations we are constantly getting accountability for landlords. Do you feel that tenants should have a little bit of accountability?

**Mr Robbins:** I most definitely feel tenants and landlords should have accountability.

**Mr Stewart:** Right. I think that's what we are hearing as well is that if we're going to change legislation, there's got to be a level playing field for both parties.

**Mr Robbins:** Yes.

**Mr Stewart:** We've had a number of presentations from various legal clinics and the various rules and regulations they have. We heard yesterday that people were trying to evict some tenants and it took them 18 months to do it, and during the 18 months they paid two months' rent. It took another one 16 months to do it and I think they paid four months. Yet here this morning and in other areas we've heard that it's very easy to get tenants out and evicted and there's no problem, that you get to court very quickly and everything is wonderful, whether or not they've sometimes trashed your apartment.

My concern is, what have you found and what do you believe? Is there enough regulation to protect you and them? Or when we're looking at this possibility of new change and new regulation or new direction, should there be some changes in that end of it?

**Mr Robbins:** There most definitely have to be changes. I had to evict one tenant. I was assaulted by that tenant, so I called the police. The police would not get involved because it was a landlord-tenant situation. I filled out the proper forms to get the tenant evicted. I think I spelled one letter in his name wrong. I had to start all over, I forget what it was, 18 days before you can proceed. I went into court. I won judgement. The judge ordered him to pay me the money and gave him 10 days to get out, or whatever the law is. The tenant waited till the very last minute. I had to go hire the sheriff. It cost me another \$500 to come and put the tenant out because the tenant wouldn't move.

I got a phone call just three weeks ago from another landlord where this tenant is pulling the same stunt again. He's refusing to pay his rent and he's locked his doors and he says, "Take me to court." This tenant has been known. I've talked to the sheriff in the Niagara region and this tenant has pulled this stunt all over the Niagara region and is continually doing it.

**Mr Stewart:** We've heard that the rates are going up constantly. Do you feel that many of the people in the Hamilton area are at maximum rates now?

**Mr Robbins:** That I'm not qualified to answer. But I'll tell you, as I drove down King Street West, every apartment building has a For Rent sign on it. There is no shortage of apartments for rent.

**Mr Stewart:** We certainly saw that over the last week or so, that as the vacancy rate goes up, indeed statistics show that the costs are going down some.



**Mr Ernie Hardeman (Oxford):** Thank you for your presentation. I just wanted to carry on with Mr Stewart's question. He asked about the vacancy rate in Hamilton. Do you know what the vacancy rate in Thorold is and whether you are at your maximum rent on your units?

**Mr Robbins:** I'm not at my maximum rents. For a while there I was running at almost a 20% vacancy rate in my building. I've just, fortunately, got my building rented out. I've never had my building rented, since 1988, for a full year. Tenants come and go as they please. There's a \$500 bill every time they move out. There's an advertising bill; you go to the paper and they want \$300 to advertise to rent the unit. You've brought in GST on everything I buy. You've put a provincial tax on my insurance, which I can't recover. My insurance started at \$400, it went up to \$900, up to \$1,800, and I can't recover those costs. I've never had a claim. All insurance companies have done the same thing. I can't recover my costs. You guys can sit there and make all the money you make, but I've got to work seven days a week and my wife works seven days a week, and we've both run our health right down.

**Mr Hardeman:** Going on with the issue of the maximum rents, if you're not at your maximum rents, what prevents that from happening? Why is it in Welland that you are not?

**Mr Robbins:** Because the marketplace will dictate what you can charge. As I say, I'm for the complete abolishment of rent controls: no more maximum rents, nothing. As the market turns around, you give tenants rights, you allow them a rent increase every 12 months. When a tenant moves out, you can reset your rent to whatever the market will allow, and then that tenant is protected for 12 months before you can put through a rent increase. And the rent increase — you know, 90 days' notice. You talk with your tenants; if they can't afford it, you work something out. You don't want to lose a tenant. It costs you more money to find another tenant than it does to try and rent your unit.

**The Chair:** Thank you very much, Mr Robbins. We do appreciate your input here this morning.

I would ask the people at the back with the signs — I don't mind them being in here, but they're very distracting to those who are up here. Would you stand them against the wall, please?

*Interruption.*

**The Chair:** We can recess and let you have your demonstration or you can do what we've asked you to do, please. It's your call.

*Interruption.*

**The Chair:** Okay, we'll recess.

*The committee recessed from 1018 to 1028.*

#### HOUSING HELP CENTRE FOR HAMILTON-WENTWORTH

**The Chair:** The next presenters represent Housing Help Centre, Jackie Gordon and Laurie Graham. Good morning. Welcome to our committee. The floor is yours.

**Ms Laurie Graham:** First of all, I'd like to thank the Housing Help Centre for giving me a few minutes of their time. As a tenant, I only found out about the

proposed changes a couple of weeks ago through a rent control update. I'd like to thank them for giving me a few minutes to speak. My name is Laurie and I'm a tenant, not by choice but through necessity. I'm a widow who is now a single parent with three children who works full-time.

After much searching, I recently rented a beautiful three-bedroom home near the Port Colborne harbour. I consider myself a good tenant. I keep my home immaculate and take good care of the property. I am one of the lucky tenants who have a good landlord. But now, after renting the home of my dreams, I am concerned for the first time about security of tenure. You see, I'm in the first year of a one-year lease, and under the new proposed tenant protection legislation my landlord does not have to renew my lease even though I am a model tenant.

You may say, "Why wouldn't your landlord renew your lease?" and I would answer, "Because it is in the landlord's best interest not to." Once I have vacated the unit, my landlord is free to charge whatever rent they feel they can get. Currently I pay \$750 per month, plus bills, for an immaculate, three-bedroom, single-family home with five appliances. If you could see this house, you would know it's a good deal. Friends I have taken on tours of the house tell me they would pay much more.

The new tenant protection legislation should be called tenant destruction legislation. I want a safe place for my children to grow up in. I want and I need security of tenure. The proposed changes will not protect me and my family from unfair rent or evictions.

New Directions, the discussion paper on the proposed tenant protection package, states that one significant problem with the current system is that it discourages capital investment both in existing buildings and in new supply. The result is that many tenants are living in buildings that desperately need repair work. Because new buildings are not being built, tenants cannot easily find another apartment. I'm here to tell this committee that tenants are living in substandard housing because that is all they can afford to choose. In my search for rental accommodation, I saw all types of housing, some good, but most bad. Affordability means settling for something less than you would desire for you and your family, but any roof is better than no roof. There are no choices when it comes to low-income affordability. There are long waiting lists for decent, affordable subsidized housing units.

Landlords must be made accountable for maintaining safe rental premises and tenants need to be able to count on legislation to enforce this right. The changes this ministry is considering will not increase the stock of new rental housing. This government is living in Fantasyland if they feel rent regulation has prevented the industry from constructing new rental housing. Currently, builders and developers of new rental housing are exempt from controls on their rent levels for the first five years of the life of the building, but this lack of controls has not produced significant market rental housing. The proposed permanent exemption is no more likely to produce a noticeable increase in the construction of private sector rental housing. The fact is that the economic cost of building is too high to make the new apartments afford-



able for average tenants. The building industry's flight from the creation of rental housing is due to the high cost of building.

Lyle Hallman is a builder and the largest landlord in Waterloo region. Development and construction costs are lower there than in Metropolitan Toronto. His reaction to the discussion paper was that it will not result in new apartments in that area. He stated in the *Kitchener-Waterloo Record*, "There won't be new apartment buildings because people won't pay \$900 a month in rent, and that's what we need to build a new building, and that's why we have a foundation just sitting in Waterloo."

According to Stats Canada, in 1993 the average income of tenant households was \$34,000 as compared to over \$60,000 for homeowners, and more than 35% of tenant households in Ontario had annual incomes of \$20,000 or less. Since that time, more than 30% of all private sector tenants have had their incomes substantially reduced as a result of last year's 22% cut in payments to recipients of social assistance.

For the provincial government to say it is no longer in the housing business is simply not good enough. By entrusting housing to the marketplace, it is abandoning hundreds of thousands of low-income tenants who can't be adequately housed in what it can offer.

Ontario needs a rental housing strategy that will bring about the creation of enough rental housing to meet the demand, housing that low- and middle-income tenants like myself can afford. In earlier post-war history, the government acted to encourage the construction of affordable rental housing. The Lampert report states:

"It is important to note that during the period when there were significant amounts of private rental investment, government programs and policies had a prominent role in making such investment attractive. Prior to tax reform in 1972, the tax system treated rental investment very favourably."

Without government assistance, builders are historically incapable of building housing that most tenants can afford to rent. The problem predates rental controls by many years, so removal of rental restrictions will not solve it. The for-profit sector has avoided rental housing development and will continue to do so because without substantial transfer of public funds their profits are minimal.

The industry's judgement is that the impediment to building is not the rent regulation system but the cost of constructing rental housing, which is greater than the rental market will bear. The government proposals will not be effective in starting up the development of new rental housing to any measurable extent. These changes, we are being told, will protect tenants, but it's clear that the real winners will be the owners of existing rental housing in a tightening rental market. With new opportunities to convert their housing to condos, they can expect their profits to skyrocket.

The industry likes to present a picture of landlords as not making enough money. However, just last month the *Globe and Mail's* Report on Business stated, "Ontario's apartment sector has delivered a 10% annual return on investment over the past 10 years, outpacing all other sectors." Landlords of existing rental buildings do quite

well financially under the current laws, but the government's proposals will give them an even better return on their investment, as vacancy decontrol will allow affordable rents to escalate and rents for sitting tenants will be allowed to increase more than they would under current law. It's no surprise that the landlord lobby is so anxious to have this legislation go ahead.

The Rental Housing Protection Act currently limits the loss of affordable rental housing through demolitions and conversions to other uses such as condominiums. The ending of the Rental Housing Protection Act will allow landlords, with regard only to their business interests, to convert their existing affordable apartment buildings to condominiums for quick, healthy profits. Obviously, this has nothing to do with increasing the supply of new housing and everything to do with making current owners of rental buildings more money. It will not improve the financial position of potential builders of rental housing, as registered condominiums are already exempt from the legislation.

Individual tenants like myself will pay the price for scrapping the RHPA as more of them lose their rental homes. This measure will reduce the supply of affordable rental housing — exactly the opposite of the government's stated goal.

The premise behind the extreme measures proposed by this government is that if rent controls are effectively ended, builders will construct substantial amounts of private rental housing. It is wrong. Even the minister himself was quoted in the *Toronto Star*, August 20, as being under no illusions that proposed legislation will trigger a boom in new rental housing construction. Under the government's policy proposals, developers still will not build, and tenants will pay higher rents than they would otherwise have had to.

Basic rights and protections that renters have relied on for years will be removed. This spells disaster for myself and other tenants in Ontario. I urge the members of this legislative committee to please reject the proposed changes and to advise the government to re-examine its policy direction and turn its attention to providing affordable housing and true protection for tenants. Families like mine are counting on you.

**Ms Jackie Gordon:** My name is Jackie Gordon and I'm with the Housing Help Centre for Hamilton-Wentworth. I was going to talk about the impact on tenants, the people we see, and there are a lot of people we see. Since we opened our doors six years ago we've had contacts with over 60,000 households looking for affordable housing. In the last 12 months, we've had over 15,000 contacts with households in Hamilton-Wentworth looking for affordable housing. But I think Laurie did a really good job of explaining what it's like for a tenant to be out there looking for affordable housing and how important it is to find decent housing to live in, so what I'd like to do is take a few minutes to talk about some of the care home changes being proposed.

In Hamilton and some other municipalities in our region, we have something called second-level lodging homes. Those are licensed care homes. We have over 80 second-level lodging homes that are home to 1,600 tenants. These tenants are for the most part either frail



elderly or people with psychiatric illnesses. There's a smaller number of tenants who have developmental or physical disabilities. More than half of the second-level lodging home tenants in our region live on low incomes and have a discretionary income of \$112 a month, which is their personal needs allowance.

When the Residents' Rights Act was enacted in 1994, it brought regulation under the Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act to care homes. The Housing Help Centre supported the legislation at that time and we continue to support tenants' protection and security of tenure for care home tenants.

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Our one concern with the legislation when it was brought in was that we would have liked to have seen meals controlled under rent control for care home tenants, as they were at the time for tenants in rooming- and boarding-houses. We would still like to see the meal portion of care controlled by rent control.

At the time the Residents' Rights Act was brought in, the issue of privacy and access was important to both tenants and landlords in the second-level lodging home system. Tenants were glad to have their right to privacy enshrined and to have a mechanism for complaint if their privacy was violated. Landlords worried that they wouldn't be able to provide the necessary care services or maintain a safe home if they had to follow regulations about access to a tenant's room.

What we've found since the implementation is that it's made no real difference for either second-level lodging home tenants or landlords. It appears that tenants always grant permission for a landlord to enter their room when they're asked. What they wanted was not the right to refuse and keep the landlord out; it was simply the right to be asked, to be treated with dignity and have their right to their home respected. We have not had one complaint at the Housing Help Centre since the legislation was passed from a tenant about a violation of their privacy in the past year. Prior to the legislation being passed, we had numerous complaints from tenants about their privacy being violated.

Second-level lodging home landlords are continuing to make objections to the access requirements. However, we are only hearing hypothetical objections. Not one landlord has been able to tell us how the privacy and access requirements hindered their ability to provide care or to maintain a safe home.

Based on our experience, it does not appear to us that the legislation needs to be altered, so we would oppose the changes being proposed around bed checks and other alterations to the privacy and access provisions.

One of the other things we're concerned about is the talk about transferring and how tenants will be transferred from one care home to another. We work with second-level lodging home tenants who are looking to move from one home to another, for a variety of reasons, or to move from a home into independent accommodation. These people are perfectly capable of making their housing choices and of conducting a housing search with varying degrees of assistance. They don't need to be transferred. It's not a decision a landlord should be

making; it's a decision a tenant should be making in conjunction with their family doctor or other care service providers and family members where that's appropriate. It's not an assessment that landlords should be making in isolation.

As it appears from the New Directions document that these transfers will be based on a changed need for care services, we would urge that transfers between care facilities be dealt with not in residential tenancy legislation or through the Landlord and Tenant Act but through a provincial regulation of care services. The more the government tries to fix care service problems through residential tenancy legislation, the more difficult it becomes. You're trying to provide legislation that will cover frail elderly people in homes that are almost nursing homes, as well as young, very active people with chronic mental illnesses. The needs and the care services of those two groups are so different. You really need to be looking at care services in that regard, not trying to do a quick fix through residential tenancy legislation.

Regarding fast-track evictions, we agree that when a tenancy in a second-level lodging home is not working out, it's in the best interests of the landlord, the tenant who is causing a problem and the other tenants that the tenancy be terminated quickly. However, we think it's essential that tenants be given notice of the problems they're causing, of the landlord's intention to evict, and be given an opportunity to remedy those problems.

In addition, these tenants need help in finding a new home. They need time to contact a worker who can help them locate a new home and they need time for a housing search. Remember, this will be a more lengthy housing search because they're looking for something that will meet their care needs as well as their residential tenancy needs. If we're looking at landlords evicting people on a weekend, then we're looking at people being homeless on the street through a fast-track eviction process.

We would recommend that there be a period of time where the tenant either be allowed to stay in their home while it's being resolved and they look for alternative accommodation, or that the landlord be responsible for finding appropriate alternative accommodation for the tenant while the case is proceeding through the court or the tribunal. That way, if the court finds in the tenant's favour, the tenant can go back home. If a writ of possession is issued to the landlord, the tenant has already been removed from the home and isn't causing any problems at the moment.

It's not clearly stated in the New Directions document about tenants' rights to organize. We assume, because it's not there, that tenants will still have this right, and we think it needs to be particularly entrenched for care home tenants. Because of their vulnerability and because of the loss of the Advocacy Commission and corresponding legislation, these tenants really need an opportunity for collective action. They need to be able to access people who can help them and they need to be free from the fear that they will lose their home and care services if they speak up for themselves.

We also would like to see the Rental Housing Protection Act remain in effect. I think other people will



probably talk about the impact of the RHPA on the supply of affordable housing across Ontario. What we would like to tell you is that at the time the Residents' Rights Act was being discussed when it was at committee, before it was enacted, many second-level lodging home landlords in Hamilton-Wentworth said: "No problem. We'll just convert from being a second-level lodging home to being some other kind of facility. That way, we won't have to be landlords and we won't be subject to these legislative requirements." It was only the Rental Housing Protection Act that prevented them from converting those units, from turning people's homes into short-stay facilities. In that case, the Rental Housing Protection Act preserved vital affordable housing in our community, and we would strongly urge that it remain in effect.

**The Chair:** Just a reminder that you're down to your last minute.

**Ms Gordon:** I was just going to say at that point, rather than talk about some of the other issues, I'll just stop.

**The Chair:** There's no effective time left for questioning. Do you have a closing statement you wanted to make?

**Ms Gordon:** I think that was it: Keep the RHPA.

**The Chair:** Thank you very much. We do appreciate your input here today.

#### KLEIN DEVELOPMENTS LTD

**The Chair:** The next presenter is Kurt Klein, from Klein Developments Ltd. Good morning, and welcome to our committee. You have 20 minutes. Should you allow any time for questions, they would begin with Mr Marchese. The floor is yours.

**Mr Kurt Klein:** This is to express my thoughts and concerns regarding the potential impact of new tenant protection legislation as presented in your discussion brief, New Directions.

By way of introduction, I'm addressing this committee as a representative of our family operation, Klein Developments Ltd. We have been in the residential development business for over 35 years and currently own and operate five low-rise apartment buildings in the city of Niagara Falls.

At present, Niagara Falls is experiencing a vacancy crisis, with October 1995 rates as reported by the CMHC at 5%, or more than twice the provincial average. If you have my presentation in front of you, you might be able to refer to figure 1, which is a chart of the CMHC stats from October 1995 that indicate what the vacancies are in the Niagara Peninsula. As you can see, Niagara Falls is at 5% and some of the other municipalities in the area are even higher than that, for an average for the St Catharines-Niagara market area of 5.2%.

This situation has existed for the last four years, and despite attempts by landlords like myself to attract new tenants and retain existing tenants with rent freezes, reductions and move-in allowances, rates still remain unacceptable.

Figure 2, which I've also attached to my presentation, will also give you a comparison of our marketplace

versus the Toronto marketplace, to show you what's happened with our vacancy rates since 1989. We've moved from a low of 1.2% in 1989 to a high of 7.4% in 1993, and we're currently at 5%.

Approximately 60% of our company's units have rents below the legal maximum allowable — this in a market where the average monthly rent for a one-bedroom and a two-bedroom apartment as reported by the CMHC are \$466 and \$584 respectively.

I've heard a great deal said about some of the proposed changes contained in the discussion paper for new tenant protection legislation, and once again much of the debate has focused on Toronto, a market very different from our own.

In the last two weeks, newspaper articles have printed quotes that we in Niagara have difficulty comprehending, including: "Proposed changes will mean landlords harassing tenants into moving so they can boost their income," and "Scrapping the current rent control system will force many tenants on the street because they won't be able to afford massive rent hikes."

On the first point, let me make it clear: I'm not in the harassment business. I never have been and I never will be. As a landlord, I'm more concerned about keeping my existing tenants happy than trying to re-rent units that become vacant. Tenants are my most prized possession and losing just one is a costly proposition.

On the second point, some critics would lead you to believe that scrapping the rent control system will lead to massive rent hikes and indicate that the sky is the limit when it comes to rent hikes. I can tell you that the sky is not the limit. Every marketplace has its limitations, particularly Niagara Falls. In our community, which has been devastated by the recession, many landlords continue to charge rents well below legal maximums. Some have rents frozen for three to four years, myself included. I understand the realities of the marketplace. The scare tactics currently being used by some critics of legislative reform do not reflect my reality.

#### 1050

Regarding the proposed tenant protection legislation contained in the New Directions discussion brief, I have several comments, concerns and thoughts. On proposed rent increases, the proposed legislation indicates that when a unit is vacated, the landlord would be permitted to negotiate the incoming tenant's rent without regulatory restriction and that the rent guideline will once again apply when the unit is re-rented. The problem with this proposed scheme is that it penalizes landlords like myself currently experiencing a downturn in the market.

As I've already indicated, our rental market has been depressed for over four years. Landlords have been operating for the most part at rent levels below the legal maximum. Under the current system, I would be permitted to increase rentbacks towards the legal maximum when the market improved. Under the proposed system, my entitlement to adjust the rent back towards the legal maximum would be lost.

This raises some serious questions regarding future rental strategies for our company. Can I afford to offer frozen or discounted rent in order to fill an immediate vacancy? If I do, I risk losing my rental maximum.



Should I take the full guideline increase, even in a weak market? I believe that if controls are to be left in place, as is being proposed, then legal maximum rents should be allowed to increase based on the yearly guideline amount.

On the issue of maintenance and property standards, the discussion paper states that the current system does not do enough to ensure that buildings are kept in good repair. It doesn't create any incentive for landlords to put money in maintenance. As a landlord living in Niagara Falls, I take issue with this statement. Our company takes its maintenance responsibilities very seriously. We have always done our utmost to provide tenants with clean, comfortable, safe and affordable rental accommodations, whatever the market conditions. We take great pride in our buildings. Our incentives to put money into maintenance include pride in ownership, tenant retention and attracting new tenants. In a highly competitive marketplace, we understand that you can't afford to let maintenance slip. If you do, you stand to lose your existing tenants and damage your reputation. In our community, word of mouth and reputation can play a critical role in your ability to rent a unit.

There are also two sides of the maintenance coin that have to be addressed. While tenants expect that for their rent they will have well-maintained and safe homes, landlords also have the right to expect that tenants will maintain their rental premises during their tenancy. This is not always the case. A great deal of money is being spent by landlords, myself included, refurbishing and repairing units that have been damaged as a result of tenant negligence or malicious acts of vandalism. As there will always be some landlords who do not keep their buildings properly maintained, there will also be some tenants who do not maintain their units in a good state of repair.

If there is to be balance in the system, some protection beyond pursuing the matter in Small Claims Court must be provided to landlords. I could paper my walls with the judgements I've received from Small Claims Court. Collecting on those judgements is another story. I currently have over \$10,000 in uncollected judgements that I may never collect on.

I'm also concerned about the regressive nature of some of the other proposed changes addressed in this discussion paper. The violation of a property standard will be made an offence, rather than the violation of a work order, which currently exists. Landlords under proposed reforms may also be subject to fines of up to \$50,000 or more without receiving any notice or being given any opportunity to correct a problem. What is particularly disturbing about these proposed pieces of the legislation is that they do not promote communication and goodwill between landlords, tenants and the governments involved. Rather, they provide a disincentive for improved communications. The message that is being sent to tenants is not to try and work things out with your landlord through open and honest dialogue. Instead, it suggests that if you have a disagreement with your landlord or want something done, call the city property standards officer for a quick resolution of your problem.

I understand the importance of maintaining open communication channels with my tenants and the municipi-

pal government and have been pleased with the sense of fairness that exists under the current system. I'm therefore very disappointed in the adversarial tone of this particular piece of legislation. I believe strongly that an evenhanded approach must be maintained when addressing tenant requests/complaints regarding maintenance or property standards. As has already been stated in the message from the minister contained in this discussion brief, it is your job as the government to strike a balance and bring in a system that works for tenants, landlords and Ontario taxpayers.

On the issue of terminating a tenancy under the Landlord and Tenant Act, the process of terminating a tenancy is both costly and time consuming, and requires further amendment. It should be noted that landlords are more interested in filling vacancies than creating vacancies. We do not take pleasure in terminating a tenancy; rather we see it as a last resort if the problem cannot be resolved through normal discussions. A less time-consuming judicial process is key to minimizing revenue losses and in turn encouraging additional rental housing development.

As a start, current notice periods for termination should be reduced, including reducing the time permitted for tenant payment of arrears from 14 days to seven days and reducing the time frame for termination of a tenancy for cause from 20 days to 10 days. It is clear that provincial statutes, the Landlord and Tenant Act included, play an important role in encouraging investment. Greater confidence in the legal system and its ability to deal with a landlord and tenant issue in a quick and fair manner would act as a further incentive for development.

The pet laws under the Landlord and Tenant Act: While the issue of pet laws has not been addressed at all in this discussion paper, I have to take this opportunity to make some mention of pet laws and the implications they have on landlords in Ontario, particularly in my market. The provision in the act that prevents the termination of a tenancy because of a pet occupying the rental premises, once referred to as the Fluffy law, has opened the floodgates on pets in apartments, which has added to maintenance and legal costs. In each of the last five years, our company has had to either have a pet legally removed from a unit or has had to repair or refurbish a unit damaged by pets, including dogs, cats and ferrets.

Again, I believe there is a clear imbalance regarding landlord rights when it comes to pets occupying rental premises. Tenants and their pets have been given rights that in many cases impede or infringe on the right of the landlord to re-rent an apartment unit. Re-rental of a unit becomes more difficult and time consuming when a pet is occupying a unit or has occupied a unit. Some excellent prospects have walked away from my buildings when they have discovered that the unit was occupied by a pet. In some cases I've been unable to even show the prospect a pet-occupied unit because of the condition of that unit.

I would suggest that amendments be made to protect the landlord's investments and ensure that tenants are held accountable by law for any negligence as it relates to their pets both during their tenancy and upon termination of their tenancy.



On the issue of increasing the rental stock, the government has made it clear that it wants to be out of the business of bricks and mortar and that future growth of rental stock should come from the private sector. I agree with this position. However, to make this work, the government must take on the job of creating an environment that will encourage private industry to flourish again in the rental housing sector.

Restoring balance in the landlord and tenant relationship and phasing out rent controls are only two pieces of the puzzle. Developers and lenders need other positive signals to get back into the business of building rental units. Issues that must also be addressed include development charges. They are a burden that affect the entire industry. In Niagara Falls regional and municipal development charges for a new apartment unit total \$1,869 per unit, which must be paid before a shovel is even put in the ground.

Property taxes and provincial capital taxes: There continues to be a great inequity in property taxes charged on multi-residential units when compared to single-family residences. Landlords in Niagara are currently paying 20% to 25% of their gross rental income on property taxes alone. Multiresidential units are paying a higher proportion of their market value in taxes, even though their burden on the municipality is less. Provincial capital taxes, which currently tax property owners like myself annually at a rate of 0.3% on the assets of my company, should be eliminated.

The GST: While commercial landlords may collect GST on rents and apply for GST input credits, residential landlords must pay GST on all goods and services without collecting any GST from tenants.

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As you can see, there are a number of hurdles that must be overcome to make it economically viable for the private sector to get involved in providing new rental housing. These issues are not insurmountable, but they do require the political will and courage to institute changes.

In conclusion, I appeal to this committee to consider landlords in smaller communities when developing new legislation. Many landlords like myself have been frustrated with a system that seems to have become increasingly complex, bureaucratic and tenant-oriented. Many of us live in communities like Niagara Falls which have been hit hard by the recession and are still in a recovery mode. Our situation and experiences do not mirror those of the big city. Therefore, the big city experience should not dictate legislative reform at the expense of communities like Niagara Falls.

I thank you for the opportunity to speak before you today and I welcome any questions you may have.

**The Chair:** We just have a very quick one minute per caucus.

**Mr Marchese:** Mr Klein, thanks very much. It's really very complicated to get into a lot of questions that I would have of you, but the one that quickly comes to mind is the whole issue of vacancy rates. We were in Peterborough yesterday and Mr Stewart says when vacancy rates are high, the rental rates go down, and there's evidence for that. We haven't seen evidence of that. In fact, the evidence that was shown yesterday was

shown not by the developer or landlord — in fact one landlord said the rates were going down, but three other agencies working in the field with statistical information showed the rates did not go down in a high vacancy situation as in Peterborough. Do you have a different experience of this?

**Mr Klein:** I certainly do have a different experience in this. I've been reducing rents for the last three to four years. Some of the rents are frozen, some of them I'm offering incentives on, which is a form of rent reduction, some units I'm offering move-in allowances. I have in the past offered one month free rent as an incentive to move into my units.

**Mr Marchese:** Do you think that is due —

**The Chair:** Thank you, Mr Marchese.

**Mr Maves:** Thank you very much, Mr Klein, for your presentation. I note in your graph in the back that 1991 to 1994 there's a huge increase in private vacancy rates. I'm assuming that's to the construction of socialized housing?

**Mr Klein:** We experienced quite a problem down in Niagara Falls and I had many presentations down there during the times when we were seeing all the social housing units coming on to the market. Between the period of 1991 and 1994, we saw approximately — it was over 500 publicly initiated rental units come on to the market. It was very disturbing to us, because we saw our vacancy rates go up. We tracked some of the tenants who were moving out of our buildings. They were going into the subsidized buildings. I tracked 18 tenants over the period of a year and a half who had moved out of my building and gone into social housing units because they could pay comparable or less rent for a new building with more amenities.

**Mr Sergio:** Thank you very much for your presentation. The first presenter this morning told us that the marketplace has been keeping rents down. Can I have your comment on that, please?

**Mr Klein:** It certainly has, and that's what we're experiencing in Niagara Falls right now. I've indicated that 60% of our rents are below legal maximums. In many cases, we're not even taking guideline increases. Our objective is not only to retain our tenants but to attract new tenants.

**Mr Sergio:** So rent control is not the problem?

**Mr Klein:** The marketplace is controlling rents down there right now.

**Mr Sergio:** So we shouldn't tinker with rent control now?

**Mr Klein:** Pardon me?

**The Chair:** Thank you, Mr Klein. We appreciate your attending this morning and giving us your input.

#### WOMAN ABUSE WORKING GROUP

**The Chair:** The next presenter is Renate Manthei, representing the Woman Abuse Working Group. Good morning and welcome to our committee. You have 20 minutes, and the floor is yours.

**Ms Renate Manthei:** I don't have a watch on me. I don't think I'll be that long anyway.



Good morning, gentlemen and ladies. The Woman Abuse Working Group in Hamilton is a networking coordinating group of approximately 25 agencies, and you will see them listed on the letterhead that's part of the presentation. The members include shelters, second-stage housing, the police, crown attorney, a whole variety of services that are focused on coordinating services to women who have been abused.

The group is also certainly concerned with violence against women, and its major focus is both coordination and the prevention of abuse against women. Many of the members are from shelters, and housing is a very crucial issue for women who have left abusive relationships.

In terms of the discussion paper, there were a number of issues that we had some grave concerns around.

The Rent Control Act is a very significant piece of legislation in that it protects tenants and limits the power of landlords. It's designed to protect all tenants, but its most important focus, I think, is in protecting vulnerable people who are renters. By "vulnerable," I refer to those tenants who are particularly at risk in maintaining a rental home due to low income and other life situations. Included here are the working poor, the unemployed, individuals on social assistance or on disability, or people on limited pensions. Also included are many single mothers with children, who are among the lower-income levels in our communities, homeless individuals, individuals who have left institutions and are readjusting to community life, persons with disabilities, many seniors and abused women and their children. There are probably other groups as well that I haven't mentioned, but I wanted to give you a clear picture of who the vulnerable tenants may be in our communities. The Rent Control Act is required in order that safe, good-quality and affordable housing is maintained.

One of the assumptions made in the discussion paper is that the landlord and tenant relationship is an equal relationship. I would like to posit that it is not. There is a distinct power imbalance between a landlord and a tenant, and this basic imbalance in power means that a tenant is not in a position to negotiate his or her rent on an equal basis in the absence of regulatory restrictions. It states in the discussion paper that the tenant has the power to negotiate above-guideline increases. I feel that is not true. It's the power imbalance that makes the Rent Control Act necessary to create a more equal footing for landlords and tenants.

Eliminating the rent registry, as outlined in the discussion paper, is another huge area of concern. It's the rent registry right now that enables potential tenants or tenants to get a sense of the history of the unit they are looking at. Without that information, certainly any bargaining rights they have, any sense of whether there's a fair rent involved, would be lost, and the power of tenants to make applications regarding illegal rent increases will be severely hampered.

The most serious blow to tenant protection outlined in the discussion paper is the proposal to lift rent controls when an apartment is vacated. This proposal makes a mockery of any other protection a tenant may be given. We know that about 70% of Ontario moves once every five years. This was written up in an article recently in

the Spectator. It is those individuals and families who find themselves in a vulnerable position economically or socially who move far more frequently. In fact, family crisis may force them to move. Certainly in the case of abused women, this is what occurs quite often. A woman who is seeking safety may be forced to move out of her home and find a rental unit for herself and her children. With the elimination of the rent control that is being suggested, many people like her are going to be unable to find suitable rental accommodation because the price may have soared out of reach.

#### 1110

We are creating a climate where affordable accommodation may no longer exist for people who have to move. Tenants will live in greater fear of eviction and will be reluctant to exercise even those rights left to them for fear of landlord harassment. Requests for repairs and maintenance necessary for safe accommodation may not be made by tenants who fear eviction. Tenants who are afraid and feel powerless cannot negotiate, and if their rights are not backed by the government, they will not speak out and seek redress. Is this the kind of Ontario that we want to live in? I would say no, it is not.

The New Directions discussion paper does outline some new measures for dealing with harassment, but I would like to point out that dealing with harassment issues has been difficult for tenants and that some of those measures don't make it easier. Some of the initiatives could be useful, but they cannot be traded off for the rent control protection that is being proposed. The removal of rent control in many cases could lead to greater harassment by landlords who have their eyes on setting a higher rent if only they can dislodge their sitting tenant. Justified fear of eviction may prevent tenants from exercising these new rights or dealing with harassment and landlord interference.

Rental vacancies, even in large cities such as Hamilton, are not as low as they have been at certain times in the past, and I think we've heard differences of opinion as to that. There are certainly indications that landlords are at times giving some incentives, maybe not lowering the rent but giving some incentives to tenants in order to have them move in. We've heard that from our last speaker. Many apartment buildings in Hamilton are sporting vacancy signs, and we've also heard of certain incentives that are being offered here in Hamilton. However, an inexpensive way to keep vacancy rates from dropping too low is to ensure that rental units are not converted to other uses such as condominiums. If rental vacancy rates are a consideration either now or in the future, converting rental units to other uses can remove needed affordable apartments from the rental scene, and that has to be dealt with.

In the building industry, private rental starts have been down. This is from the chart on page 17 of New Directions. I believe there's a good reason for that. The private industry is not able to make the kind of profits they want from rental units because social housing is what's really needed in our communities. Social housing starts by non-profit agencies have been up over the last decade. The reason is that there's a demand for social housing, that people cannot afford the high rents that the private land-



lords want to charge at times. What we need is to ensure that low-cost, affordable rental housing is maintained.

In order to do this, the role of government should be to ensure the principle of housing as a social right. The government's role should not be to subsidize developers and enable them to squeeze high profits out of a hurting, vulnerable tenant population. What is needed in Ontario are more commonsense, caring individuals who are prepared to provide rental housing perhaps on a small scale and to maintain those buildings. Maintaining a rental unit — there should not be an incentive for maintaining a building. That should be part and parcel of being a landlord, whether small or large. I think we need that kind of mentality here in Ontario, that maintenance of units, so people can live in comfortable, safe, good-quality housing as a right.

The high cost of repairs to current rental units is due in many instances, I think, to the aging of high-rise buildings built in the 1960s and 1970s. Even at that rate, I think the discussion paper said that 60% of buildings have been built since 1970, which doesn't make them that old. That's 20 years. In the life of a house or a building, that's certainly not old. I think we expect buildings to be around for 60 to 100 years; I don't know. But certainly maintaining a building is part and parcel of erecting it, and I would think some of the responsibility has to be put on the developers who built the high-rises in the 1970s — mind you, with a fair bit of government support: federal tax breaks and government-guaranteed loans. Now they are looking at repairing them and maintaining them. I think that is the burden that landlords have to bear; that's a logic of building something. It has to be maintained. Building something that's 20 storeys high or 30 storeys high is going to cost a lot more than building something that's lower to the ground.

Twenty-five years of hindsight have shown us that these units are not economically sustainable because of the cost of repairs, nor are they socially sustainable. I think we have seen that many people, people with families especially but others as well, prefer to live closer to the ground, and so the popularity of town houses and smaller apartment buildings has increased in recent years. Smaller buildings are less costly to maintain. I believe that's the kind of building we should be promoting here in Ontario, the small, more sustainable types of units. Developers have to recognize that the days of building unsustainable high-rise towers, while profits in the past may have been very good, are over and that we need more people to come on board into the building field who have a social conscience and are aware of the sustainable needs of units that they erect.

Another aspect from the discussion paper referred to dispute resolution. I believe some headway needs to be made in disputes of landlord and tenant issues, because decisions are very slow in coming from what I understand. Certainly improvements in the present system are welcome. What nature that system should take, I'm not as informed of that area. I would certainly suggest that the government put their heads together with the tenants who are now embroiled in some of the disputes, and landlords as well, so that a good resolution can come from that. I believe the courts should be maintained as an

option for those people who wish to use them but that an alternative system may also be in place so that there may be some choice for people as to where they would like to resolve their dispute, and that in the case of appeal, the option of courts also be retained.

I think it's really crucial that the committee look at the discussion paper, especially the aspect that relates to rent control, and that vacated apartments need to be retained in the rent control legislation. Without that we will change much of what has been good about Ontario. We will be seeing people who will be experiencing many more crises in housing and we'll be looking at many more homeless people and homeless families and families in crisis. The government needs to take that responsibility to ensure that people in Ontario are housed comfortably, safely and affordably.

**The Chair:** We've got about two minutes per caucus for questions, beginning with the government.

**Mr Hardeman:** Thank you for your presentation. We've heard considerable discussion during our time on the road with the hearings on the issue of harassment. Presently, with any harassment to tenants, the tenant must proceed through the courts in order to receive any action. The discussion paper speaks that we want to make that simpler and easier for tenants to follow through. Could you give us any opinion on whether you think the present system is sufficient to deal with the harassment that presently exists in the landlord and tenant relationship?

**Ms Manthei:** I think a system of choice might be useful, if another system was set out that people could apply themselves to so they have the choice of whether they want to pursue it through the courts or to use another system. A lot of people don't even pursue issues because it's such a long-winded process through the courts and can be expensive and traumatic.

Certainly another option would be useful. I think we need to leave the door open for people to have options as to which avenue they wish to pursue. Certainly having an option, one could presume that some harassment cases will be dealt with in an alternative dispute resolution and some of the time spent in courts may be minimized at that point, that there will be less of them going through the courts, and perhaps speed things up that way. I'm not thoroughly familiar with the harassment process, but I would think some options would be helpful.

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**Mr Kennedy:** You've made a really clear analysis of the overall rental system. I wonder if I could bring you back to the situation for vulnerable women and their families. The government makes the argument that we don't need rental protection when we're looking for new apartments and it seems that would ignore the life circumstances of many people who can't plan when they need a new apartment, who can't choose to stay in an apartment that they would be sentenced to under this when their situation can be threatening to them and to their family.

I'm wondering how severely you think this affects the mobility of women in that kind of circumstance of families, if this rent vacancy decontrol, the doublespeak the government is using for lifting those protections, takes place.



**Ms Manthei:** I think it will affect them very much. I think it may force some women to stay in an abusive situation and not consider moving out to a safer place. I think a certain mobility is desirable in our communities, for people to move when they're in a crisis, when the situation warrants. Absolutely I think people will be facing higher rents and will not be able to move out. When you have an abuse situation, you usually have sort of a family income that now has to be split in two, making it more expensive for each party to maintain a home, and to be facing a market where the rents are very high would discourage women from seeking that kind of safety.

**Mr Kennedy:** Isn't it true also that sometimes those situations are very adversarial, that there's even a break in time when family income or assets are divided and that people are on social assistance? Have you noticed a marked difficulty for families that have sought safety surviving on social assistance in the last while in terms of the 22% reduction?

**Ms Manthei:** That issue was brought up by members of the Woman Abuse Working Group at some of our meetings. Women in the shelters have noticed that and the executive directors have mentioned that they have found that there's more of a fear in women of leaving their situation now with the social assistance being reduced, and the rent is the major expense that a person has when going and moving out on their own.

**Mr Marchese:** I want to thank you for the work that you do and so many do in the field. Not all women or men are born with privilege and/or power or acquire it and so some are left very vulnerable. That's why governments are there, in my view, to protect them.

You talked about the relationship of the landlord and the tenant being unequal and I subscribe to that. The relationship is not an equal one. Landlords say we insult tenants when we say that. But I think in most of the views of those who have presented, the relationship is very unequal and that's why we have protections for tenants to limit the power of the landlord. Now they say that's unfair and so they're very happy that they've introduced legislation or a proposal that restores balance. Do you believe this piece of legislation restores balance for tenants or landlords?

**Ms Manthei:** No. Certainly some elements of it do the opposite. I think they put vulnerable people at greater risk. Especially the part that removes the regulation from a vacated apartment will put people at greater risk. There are some parts of the discussion paper where perhaps there is a restoring of that through some of the smaller parts aimed at that occasionally, but this piece about the rent control absolutely makes a mockery of any other attempt to redress some balance.

**The Chair:** Thank you very much. We do appreciate your input this morning.

#### MEGNA PROPERTY MANAGEMENT

**The Chair:** Our next presenter is Diane Linton. Good morning, Ms Linton. We appreciate your being here this morning. You have 20 minutes.

**Ms Diane Linton:** I'm here this morning to introduce our speaker, Bruno Megna, who is representing Megna Property Management.

**Mr Bruno Megna:** Mr Chairman, government representatives, delegates and other officials, thank you for the opportunity to speak to this committee today. My name is Bruno Megna and I am one of the owners and the manager of approximately 2,000 rental units in the Niagara Peninsula. I, with my brother Roy, have been in business since 1965 and have seen many changes in the rental market for Ontario during this time.

Due to the limited time available, I will only be speaking about a few issues of concern regarding the proposed rent control legislation and the changes to the Landlord and Tenant Act.

The most recent change proposed by this government has been disappointing. Since 1972, the rental housing market in Ontario has been under attack by legislation in various forms that has actually hurt the very people it was meant to accommodate. The most recent legislation fails in the following areas:

(1) The proposed rent control legislation allowing rents to adjust to market values only after the tenant moves will continue to discriminate against landlords unnecessarily and will continue to discriminate against those tenants least able to afford housing.

(2) The proposed tenant protection act institutes an environment where maintenance problems in common or private areas, unknown and/or unreported, are offences. Officers are empowered to fine without the landlord's opportunity to repair.

(3) The proposed dispute resolution system does not strictly address any concerns with the current Landlord and Tenant Act. Presently there is an environment of abuse by those who manipulate the law in ways it was never intended to, but the proposed legislation does not strictly address these concerns.

(4) The proposed Rent Control Act limits increases to 4% above the guideline effectively reducing the capital expenditure that landlords would be willing to invest in the housing stock. Even in situations where there is an agreement between landlords and tenants for particular capital expenditures, the decreased return will limit the capital investment.

I will elaborate on the points just mentioned.

Those tenants in the best financial position are always selected for those units that have lower rents due to the current rent control legislation. This leaves those tenants whom the legislation was meant to benefit out in the cold.

In the past, available units with lower rents would generate a large number of applicants. Due to the wide selection of possible tenants and the landlord's interest in minimizing financial risk, the persons most able to afford the unit would be accepted, leaving anyone with less financial means unable to take advantage of the very benefit the legislation was instituted for. The proposed legislation actually perpetuates this problem.

Since we do know that most of the units below market value are currently occupied by those tenants who are most able to afford these units, the units that remain are units that have maximum rents greater than the market



value. Therefore, the units that the proposed legislation will affect are only those units that the current legislation does not affect.

Furthermore, the units that the new legislation proposes to affect will not be affected due to the fact that they are still held at abnormally low rents. Anyone living in a unit held below market value will not be making that unit available to the open market quickly; however, abuses of subletting and illegal tenancy may rise quickly.

Elimination of the rent registry and the elimination of maximum legal rents will effectively cap the units held below the market value to their new rental amount. This is unacceptable. This kind of legislation is more reminiscent of government from the past than the current commonsense policies. What did Mike Harris mean when he said, "Marketplace rent control is the best rent control mechanism there is." Is this the same Progressive Conservative Party?

In addition to rent control effectively reserving the best units for those most able to afford them, economists have agreed for years that rent controls inevitably lead to a decline in the quality and quantity of rental housing. We have seen this happen in Ontario. Even in areas of vacancy rates less than 1% like Toronto, new housing starts were less than 500 units. Surely this is not what this government proposes to continue.

I advocate a system that does not further advantage those who are already advantaged. I advocate a system that does not unfairly tax landlords. I advocate an effective targeted shelter allowance program of the same type advocated by the PC Party in opposition and by the Fair Rental Policy Organization of Ontario.

**1130**

I do not oppose improvements to the present maintenance standards in the tenant protection act; some of those proposals, however, are not improvements.

I am in favour of all changes that will empower standards officers to crack down on the few landlords that give a bad reputation to all the landlords. However, I have concerns about a system that seems to erode an innocent until proven guilty approach. The proposals in this legislation make it an automatic offence for any maintenance violations as opposed to notification of the offence through a work order. In addition, maintenance standards violations in private areas will automatically be offences.

Abuses of the current system must be eliminated. If the new proposals can reduce these abuses and help speed up the process of dispute resolution, I am in favour.

The Fair Rental Policy Organization of Ontario goes into far greater detail in their report to this committee than time will allow me, therefore I will defer to this report.

Capital expenditures will be seriously limited if increases are held to 4% above the guideline. Situations where tenants and landlords agree to invest are thwarted by this legislation. As mentioned earlier, economists have agreed for years that rent controls inevitably lead to a decline in the quality and the quantity of rental housing. We have seen happen in Ontario. In the past five years under the NDP rule independent studies have confirmed that aging apartment buildings cannot be adequately

preserved with the present controls or forms of them. The housing stock in Ontario is deteriorating and the people who must make the decisions to invest in the capital expenditures cannot justify the cost based on the current limits on increases.

Let the landlords of Ontario spend the desired money in capital expenditures. Let the landlords of Ontario properly maintain the present housing stock, build new units and create jobs as a result of it.

I urge this committee to make the appropriate changes so that the trend of deterioration in housing can be stopped now.

I concur with the Fair Rental Policy Organization of Ontario and with their report to this committee. I would like to establish my full support of all the recommendations made in the report previously submitted to you by the Fair Rental Policy Organization of Ontario.

I anticipate that this government, Mike Harris and Al Leach will make the appropriate changes to this proposed legislation to ensure that the negative effects discussed and apparent will be averted to the benefit of Ontarians.

Thank you for giving me the opportunity to speak to this committee this morning.

**Mr Sergio:** Mr Megna, thank you for your presentation. On the first day of the hearings in Toronto we heard from Mr Goldlist who I'm sure is well-known to you in the real estate and management field. He said this legislation doesn't do anything for either one, either the tenants or you, in the business of providing affordable accommodation. It doesn't go far enough. He says that rent control is not the problem. It's a number of other things and he mentioned a number of things, such as eliminating GST and provincial taxes, lowering the taxes on the assessment on rental accommodations, of streamlining the municipal process and stuff like that, plus a subsidy. Do you think the government could afford that?

**Mr Megna:** In a nutshell, I'd like to believe that the government can afford it, but I'm not here to say whether they can afford it or not. What I can say is this, that this proposed legislation certainly is going to complicate life a lot worse for landlords with regard to maintenance. We believe that yes, there are a few landlords who are not doing their job and they should be punished for that, but with this legislation basically a landlord doesn't even have an opportunity to make the repairs requested.

**Mr Sergio:** Do you think the government should get out of the affordable housing business at all and abdicate its responsibilities strictly to the free market?

**Mr Megna:** To the contrary. I strongly believe that the government cannot actually supply housing more affordable than the private sector. If we look at what it has been costing on a per-unit basis to the taxpayers of Ontario for the non-profit housing versus what actually the private sector is offering, it's a lot cheaper with the private sector.

Also, I must say, though, that especially in the last three or four years at least in certain areas, such as Hamilton, Brantford, St Catharines and Niagara Falls, we have seen — in my own company we have reduced our rent in most instances anywhere between at least about 50% or 60% of the units. I would say this, though, should this legislation go through, no, we cannot afford to reduce



the rent, but what we will have to do is actually have higher vacancies in lieu of reducing the rent because once the rent is reduced, it takes a long time to bring it up again.

**Mr Marchese:** Mr Megna, I just want to make a few comments and then I will ask you a question. First, on page 3, you make a statement that links rent control to construction. You make it appear as if there is evidence for this. There is no evidence for that. In fact the issue is not rent control, although landlords don't like it and they want to get rid of it. The issue is whether or not the developer can afford to build at the rents that people could afford. The problem is people can't afford the types of rents that it would require to be able to build at the cost that one has to build at. But it's not rent control that causes that, it's a whole list of other things that landlords and developers want in order to build.

I wanted to put that on the record because they make this link all the time and you landlords, real estate people and developers make this link all the time. There's no evidence for that. I'm going to ask you another question in a second.

Secondly, you make a point about shelter allowance. The Tories love this because they say: "Just give them a shelter allowance and let the landlord develop. Let them build. They do it best." The problem with shelter allowance is it's probably going to be further reduced and it will never be sufficient to give enough support to people to be properly housed. Secondly, shelter allowances do not build housing and they don't build housing for those who have needs. People with disabilities, for example, can barely find accommodation for their needs. The private sector doesn't worry about those people, but those people have to worry about where to go.

You raise a point that I want to ask you a question on. You said, "Since we do know that most of the units below market value are currently occupied by those tenants who are most able to afford these units, the units that remain are units that have maximum rents greater than the market value."

What you seem to imply here is that what you'd like to do is get rid of rent control completely, then you don't have to worry about maximum rents because you can raise rates however you like, in order to be able to get at the tenant who hasn't been paying his fair share of the market. Is that more or less the point you're making? Get rid of rent control so that you can get to those people who are living in accommodation where they're not paying their fair share, is that what you're trying to get at?

**Mr Megna:** Let me answer as fast as I can due to the time limitation. First of all, until rent control was in place, we saw that actually there was a lot of apartment buildings and rental accommodation being built by the various developers. Since rent control came into force, basically there was only one apartment that I know of that was built here in the Hamilton area for the purpose of rentals —

**Mr Marchese:** That's not an explanation of why they're not being built.

**The Chair:** Thank you, Mr Marchese.

**Mr Toni Skarica (Wentworth North):** The simple problem that we're facing is that no new rental units are

being built and that was not the case before rent controls were imposed almost 20 years ago, so we need a solution to that. I noticed that outside of Toronto the vacancy rates are in fact going up in virtually every city we've been in and the rental increases are less than what's permitted under rent controls. So rent control is only a part of the problem.

In Hamilton, what would it take for people like yourself to start building new rental units? Because if you look around, you can see there's nothing new been built here in a long, long time.

**Mr Megna:** First of all, before I answer that I would say this: The most priority I personally would have before I start building any new units is I would like to have an opportunity actually to maintain and improve the units that I do own right now. It's no use for me to build new units when actually I have units that I see I could spend a fair amount of money on to improve for the tenants who are there.

I strongly believe this legislation really is hurting the very people it's meant to help. I can see that the units right now we have at lower rent are rented mainly with the people who can afford them. They start there, they'll stay there, they will not move. Where we see the majority of the action and moving is on the units that actually are at market rent or above market rent. We have seen here in Hamilton in the last four years drastic rent increases, especially in certain areas of the city.

In reply to what would it take, at this point I wouldn't even have thought that I would be building new units, because under rent control I couldn't even afford to start the foundation, let alone to build the building. In other words, the cost of a new building, there is no way that I could get enough money even to pay for the expenses and the carrying charges of the construction itself, let alone any profit.

**The Chair:** Thank you very much, sir. We appreciate your input this morning.

Our next presenter, Waterloo Regional Apartment Management Association, cancelled. Unbeknownst to anybody, they gave somebody else their spot, or told somebody. Does the committee wish to hear that person? It breaks with our tradition of allowing somebody who did not go through the proper request process to have a spot. Is it the committee's wish that the person be heard?

**Mr Marchese:** They asked somebody else to take their place?

**The Chair:** They advised somebody else who advised somebody else and eventually somebody showed up here to present, but did not go through the process of asking for a space.

**Mr Wayne Wettlaufer (Kitchener):** Essentially they did ask for that.

**The Chair:** Our rule has been that we have not allowed anybody who did not go through the process. It's up to the committee.

*Interjections.*

**The Chair:** All in favour of that?

**Mr Agostino:** Is it possible to split? It's just a question of sharing it. Am I allowed to ask a question? I understand the change has been made, but there are other individuals and groups here who have asked for standing



and could not get standing. Can we split that time in half then, in fairness, to allow one other group who has asked for standing to be here to come forward as well and split the time to 10 minutes each? Would that be fair?

**The Chair:** Basically the reason the rule is there is because there is a process. There were many people who were refused standing because of a lack of time. My own opinion is it's not fair to allow one to jump the queue, but it's one we're talking about, not several.

**Mr Sergio:** Do we have two who are willing to —

**Mr Marchese:** That's the problem you're raising, Mr Chair.

**The Chair:** That's right.

**Mr Marchese:** The problem is, if you allow one group then you raise the point about why not allowing somebody else. That complicates the whole issue of why we shouldn't change the system, as you were suggesting earlier on.

**Mr Hardeman:** I believe it is a replacement for the one that cancelled, but if it's not unanimous consent I would move that we do not have it fill in.

**Mr Sergio:** No, we've got the time. Let's hear from someone, even if it's one.

**The Chair:** I'm going to call the question. Do we have unanimous consent to hear the person? All in favour? Opposed? We do not have unanimous consent.

We're recessed until 1 o'clock.

*The committee recessed from 1144 to 1300.*

## SOCIAL PLANNING AND RESEARCH COUNCIL OF HAMILTON-WENTWORTH

**The Chair:** Welcome back to our committee hearings. Our first presenters this afternoon, the Social Planning and Research Council of Hamilton-Wentworth, are Suzanne Brown and Paul Benvenuti. Welcome to our committee. The floor is yours.

**Ms Suzanne Brown:** My name is Suzanne Brown and this is Paul Benvenuti. We'd like to thank you for holding these hearings and giving us the opportunity to speak.

Before we go to our brief, which you probably have in your hands, we'd both like to give some personal anecdotes from our own tenant experiences. I'm no longer a tenant, but I was a tenant for 12 years, during which time I lived in eight separate units. I know that's probably above the average, but I was a student. Most of those were not bad, but I remember one particular experience.

I moved into a house that was being fourplexed. There was myself and two other roommates. When we moved in, the apartment wasn't completed. There were supposed to be two bedrooms in the basement and they weren't done, so my roommate and I slept in the living room for about six weeks. After our landlord came to collect his rent we asked him if we could negotiate a reduced rent for that month, since we hadn't had what we were supposed to have. He said no. I think if we'd been a little bit more forceful, we could have negotiated, but we were young students and we didn't, so we paid the full rent. We also found out after that the person before us had been evicted under the ownership tenancy clause. The person said he was going to move in and then didn't and

they rented to us. The person who left didn't file a claim and neither did we, so that person got away with doing that. That was my one sort of negative experience with being a tenant.

**Mr Paul Benvenuti:** My name is Paul Benvenuti. I'm a member of the board of directors of the Social Planning and Research Council of Hamilton-Wentworth and I am a tenant here in Hamilton. Presently I am happy with my landlord. Joe has been a very fair guy, since I've been unemployed for some time, but I know there are a lot of people in this city, in this community, who are not as lucky as I. Many tenants all over this region have had to put up with scumlords, bad landlords. With the pending changes that this government has in store, I hope things don't get worse for more people, more tenants, in this region.

"Between a Rock and a Cold Place," an introduction: The Rent Control Act, the Landlord and Tenant Act and the Rental Housing Protection Act were put in place over the years to protect tenants from unscrupulous landlords, costly increases to rent and to preserve rental housing stock where it is needed. The Social Planning and Research Council mission is to act as an independent voice in the community to improve the quality of life for all our citizens. Our fundamental belief is that communities have the capacity and the responsibility to identify and resolve problems and that all citizens should have the opportunity to participate equally in this process. We welcome this opportunity for participation and urge the government to consider carefully what Ontario citizens are saying during these hearings and incorporate this information into any new tenancy legislation.

The Social Planning and Research Council believes that all citizens, regardless of income, have a right to adequate, affordable and safe housing and that changes proposed in the New Directions document will erode this right. Good housing is the foundation on which individuals and families can build healthy and productive lives. Without adequate housing, people cannot stay warm and healthy and properly feed themselves, look for work or participate in training courses to make them more employable. They subsist. People who are homeless face an even greater challenge of just surviving on our city streets and in abandoned buildings. Sometimes they don't survive at all. As a society, it is our responsibility to ensure that all our citizens have access to the most basic of life's necessities.

The social and economic situation in Ontario: The climate in Ontario, and indeed in Canada, is not hopeful for people who are economically vulnerable. In 1996 we are facing an unemployment rate of almost 10% nationwide. Although Hamilton-Wentworth enjoys a slightly lower rate, the statistics do not count the many workers who have been laid off and are no longer looking for work or who find themselves dependent on social assistance. The last resort of our social safety net is slowly being shredded under the guise that it does not allow us to compete in the global economy.

In 1991 Hamilton had a poverty rate of 15%. It is based on the abovementioned trends in social policy. It is likely that this rate is higher in 1996. In Hamilton there are approximately 160 people who are homeless, of



which 36% were identified as having a mental illness. A key barrier to accessing help was lack of money and a non-supportive attitude.

In the past year the Canadian assistance plan was replaced by the Canada health and social transfer. This plan will do little to preserve the current safety net. Under this, there will be less money available for health, education and social programs. Further, under the new employment program it is anticipated that people will have to work longer for fewer weeks of financial assistance than in the past. The 22% cut in social assistance payments in Ontario has directly and negatively impacted approximately 500,000 households in Ontario, of which 80% are renters.

Hamilton had a vacancy rate of 2% in 1995. This rate is predicted to drop to 1.8% this year and 1.6% in 1997. In some areas of the city, for example Westdale, which has a large student population attending McMaster University, that rate is significantly lower. As vacancy rates continue to decline, the rental market tightens. The supply of tenants needing accommodation will force the cost of rental housing to rise if rent control is abandoned.

Municipalities, locally responsible for enforcing property standards, have had their transfer payments from the province dramatically slashed by 2.7% over the past year and now find it difficult to respond to tenants' complaints. This bleak economic forecast and the direction of social trends do not bode well for tenants, who may soon be facing excessive increases to their rents at a time when they are barely managing to survive. The rent changes to tenant legislation will further erode tenants' ability to access decent, affordable housing.

**Ms Brown:** I'm going to go through the three pieces that we're most concerned with: the Rent Control Act, the Landlord and Tenant Act and the Rental Housing Protection Act.

**The Rent Control Act:** Presently under this act landlords are allowed to raise their rent annually, and in 1996 the maximum increase was 5.8%, which is an increase that few people have seen in their salaries this year. Under the new package the government is effectively eliminating rent control through a proposal called vacancy decontrol. In essence, this means that once a tenant moves out of a unit, landlords can set the rent for whatever amount they choose. Because the tenant population is a highly mobile one, this will mean that within approximately five years, most rental units will have had their rents decontrolled.

With the tight Hamilton rental market, this sets the stage for intense harassment of tenants, as some landlords will attempt to force tenants to leave so they can arbitrarily raise rents to market levels. Recognizing this will occur, the government's proposed anti-harassment unit will not address the problem. This will set up a further government bureaucracy at a time when we are told we must accept cuts to services due to budget constraints. It will be essentially ineffective, as tenant organizers in the city have found that many tenants are already reluctant to file complaints against landlords. Instead tenants simply move to escape the harassment. This will allow landlords to increase rent and condemn tenants to looking for new accommodation in a tight market with higher rents. It is

likely that groups that already experience harassment and discrimination will be specifically targeted under this system, and homelessness for the most economically vulnerable may increase.

For tenants who remain in their units, rental increases will be based on the above guideline, with an additional 4% increase for capital repairs as well as increases due to raised property taxes and utilities. Potentially in 1996, Hamilton rents could be raised by 8.6%. Considering wages have remained stagnant over the past few years and the 22% loss to social assistance recipients' incomes, an 8.6% increase in rent is astronomical.

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The rationale for the elimination of rent controls is based on the assumption that the building of new rental housing will be stimulated. However, under the current system new units are exempt from rent control for the first five years of usage, and the present guidelines for rental increases more than account for inflation, yet new housing is not being built. The new housing stock that was built in the 1960s and 1970s came about not because of the free rental market, as is the assumption in the New Directions package, but because the apartment buildings were financed with federal tax breaks and below-market loans. If low-income housing was never profitable for the private sector, they would not build it, regardless of the existence of rent control. In the Sault, the Sault Ste Marie Homebuilders' Association listed many other culprits for inhibiting private rental construction, including the GST. If the private market will not provide affordable housing for low-income people, then it is the government's responsibility to provide this basic necessity. This is the reason the non-profit housing sector was developed.

**The Rental Housing Protection Act:** Under this act, currently a landlord must apply to the city of Hamilton for any conversions of rental housing into other uses or for demolition. This allows the city to determine the impact of suggested changes on tenants and the city core and to temper those changes that are potentially damaging. To date the city of Hamilton has permitted reasonable conversions while at the same time protecting both tenants and affordable rental housing stock. The new package eliminates this law and allows landlords to convert rental stock without municipal approval. These changes may deplete rental housing stock and could inhibit the city from proactive community planning.

**The Landlord and Tenant Act:** Under this act landlord and tenant disputes are settled in court. The New Directions package suggests a tribunal system of resolution instead. This privatization of tenants' rights means that landlords and tenants will not benefit from jurisprudence, therefore the province will end up with a patchwork of inconsistent decisions. If an adjudicator is appointed by the province, there is a real danger that objectivity will be sacrificed to political ideology. Clarity around this change is needed before further analysis can occur.

In conclusion, under the current legislation tenants are protected from unfair rental increases, lost housing stock and by the justice system. Under the proposed New Directions package this protection is lost. Because our analysis shows that these changes will negatively impact on the housing situations of the most economically



vulnerable in our province, we urge the government to listen to the citizens of this province and to reconsider and withdraw this proposal. We believe that housing is a right for all Ontarians. If the private sector will not provide low-income housing, then it is the responsibility of the government to do so. People must not be condemned to unsafe and unhealthy living conditions or to homelessness. They must not be forced to choose between harassment or housing, between a rock and a cold place.

**Mr Marchese:** Thank you very much for your presentation. I hope to have time for two questions, but first a statement. This government never talks about what happens to the mentally ill, the working poor, those who are on social assistance, people with disabilities, injured workers; they never talk about that. The only people who talk about that are organizations, tenant associations, people serving these communities. We worry about what happens to them and the affordability question.

One question Mr Hardeman always asks landlords is, "Are you able to charge at your maximum rents?" and usually the landlord says no. The follow-up to that presumably is, "If that is the case, then we don't need rent controls any more." If we get rid of rent controls, at least in the way they've done it, because landlords are not charging maximum rents, that means the present system is working, so we don't need the kinds of tenant protections that some of you speak about. What is your reaction to that?

**Ms Brown:** First, if the present system is working, we don't see any reason to take it apart. Second, because landlords aren't charging market rents, that's here and now, and if we look into the long term we know that the rental market changes; all markets change. We're hoping for long-term protection for tenants. As well as this year and next year, we're also looking into the future. The Hamilton housing market is getting tighter, and we know that as vacancy rates go down, prices will go up.

**Mr Marchese:** I'm worried about that second part. That's my other part of the question. Because we have vacancy rates in some parts of the province that are high, that doesn't mean it's always going to be like that in some parts. In fact, we're worried that this will change.

The first problem is that it's an affordability question. If they have a vacancy problem, it's because people can't afford to enter their units; that's really the problem. But in the near future, if things change as they expect and anticipate — that's why they want to get rid of rent control — when you eliminate the Rental Housing Protection Act, it means people will convert, so rental accommodation will disappear, and the government isn't any longer building, the private sector isn't any longer building, and we'll have the conclusion you mentioned: Rents will rise as a result, which is what they're probably hoping for in the future. Is that —

**The Chair:** Thank you, Mr Marchese.

**Mr Peter L. Preston (Brant-Haldimand):** I'd like to correct something Mr Marchese said to begin with, that we have done this. We haven't done this. This is a discussion paper. We're here to listen, to learn and make changes if necessary and if they're correct.

There's another objection I have, and I'd like to have your input on it. We've heard a number of times during our travels across the province that because 20% of the people move each year, over five years — you extrapolate the figures; five times 20 — 100% of the places are going to be decontrolled. You must believe that an awful lot of those units are going to be lived in for that five years; they're not going to be moving. A hundred per cent of them are not going to be decontrolled. There are certain numbers on the bottom that are changed over regularly, and therefore it doesn't work out to 100% being decontrolled. Would you agree with that?

**Ms Brown:** It's probably not 100%. It's probably very high.

**Mr Preston:** All right. Are there a lot of people looking for affordable housing in Hamilton now?

**Ms Brown:** Well, I just bought a duplex and I rented it in two weeks, but I live up near McMaster.

**Mr Preston:** Are there a lot of people at the bottom end of the scale who are looking for affordable places to live?

**Mr Benvenuti:** I can tell you right now, being unemployed I'd like to find a new place. It's expensive.

**Mr Preston:** Is that right? Why haven't you been able to find one?

**Mr Benvenuti:** Because landlords don't like my prospects of being unemployed. Even though we're protected right now, I still have that barrier saying, "Where do you work and how much do you make?" I'm a starving artist, and it really galls me to see that these people have the right to say, "Where do you work?"

**Mr Preston:** Really they don't have the right.

**Mr Benvenuti:** They don't have the right, but how can you answer something like that? You're pinned in a corner and you don't know how to react.

**Mr Preston:** So there are a lot of people right now looking for affordable housing?

**Mr Benvenuti:** Yes.

**Mr Preston:** Then it hasn't worked, has it? The present system hasn't worked. It's not serving those people. Something has to be done to make more affordable housing and put it in the hands of the most vulnerable. Is that correct?

**Mr Marchese:** Like what?

**Mr Preston:** Mr Marchese, you had your turn. Is that not correct?

**Ms Brown:** Yes. I understand that probably it's not profitable for landlords to build low-income housing. That's why we have non-profit housing. That's why people need to have non-profit housing. In Hamilton we have 3,000 people on a waiting list.

**Mr Preston:** So we have to make some changes.

**Ms Brown:** Yes.

**Mr Sergio:** Ms Brown and Mr Benvenuti, to pick up on something you said at the beginning, you had one bad experience because of your inexperience and the answer from the landlord was no. The present legislation was introduced for this purpose: to protect people like you who don't know any better, or didn't know any better, with no experience; people who have limited capacity to move around in search of other affordable accommoda-



tion; people who are on social assistance; students who move very often and stuff like that.

I agree that the majority are good landlords, and good tenants as well, but we need to protect that particular sector, the special group, if you will. If you were a person, let's say, on social assistance, you go knock at the door and say, "I want to rent your apartment." The landlord says, "Oh, you're on social assistance," and thinks about it twice. If you are a student, the landlord's going to say, "Where do you get your money?" Good luck. Is this what the government's supposed to do, relinquish all the responsibility for providing for the real needy in our society? Is there anything in this legislation that does that?

**Ms Brown:** That protects people? Not in our analysis of it, no.

**Mr Sergio:** Wouldn't that be the role of the government, to do exactly that?

**Ms Brown:** That's what we think the role of the government is, yes.

**Mr Sergio:** Do you remember what Mr Harris, prior to the election, said, that if there is any change to the legislation or the rent control system as we know it, it would have to be something better, otherwise he wouldn't even tinker with it. Do you say this is something better or we should stay with the existing system?

**Ms Brown:** We should definitely stay with the existing system. This isn't better. This doesn't protect tenants.

**Mr Sergio:** I hope our colleagues are listening. I am sure they are listening, and I hope the minister and the Premier will do the same.

**Ms Brown:** Thank you. We do too.

**The Chair:** Thank you very much, folks. We appreciate your input here this afternoon.

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## SOCIAL HOUSING AND ACCESS COMMITTEE

**The Chair:** Our next presenters are Bonita House and Andrea Horwath from the Social Housing and Access Committee. Good afternoon. Welcome. We appreciate your being here.

**Ms Andrea Horwath:** Thank you. I want to thank the committee for giving us the opportunity to speak today. Unfortunately, Bonita House has had an emergency and was called away and is not able to co-present with me.

I also want to mention that I was really happy earlier this morning to see some of our local MPPs in attendance. It's unfortunate that they weren't able to stay for the day, but it was very good to see Mr Doyle and Mr Pettit and Mr Skarica stop in on the hearings. I think it's very important that they spend some time here.

My name is Andrea Horwath and I'm the chair of the Social Housing and Access Committee. SHAAC is a committee that's been operating in Hamilton for over 10 years. We consist of various interests in the community, including landlords, tenants, tenant activists, housing activists, people who are basically concerned with social housing as well as access to housing in our community.

Just another interesting point I want to make before I start the presentation is that we've been working in Hamilton on housing issues and one of the things we've

done recently is speak to our local government about the potential loss of the Rent Control Act, the Rental Housing Protection Act and the Landlord and Tenant Act particularly. We were successful with the planning and development committee, who agreed with us that these pieces of legislation should be maintained. In fact, on Tuesday evening city council adopted the recommendation of the committee that indicated they would like the government to keep in place the Rent Control Act, the Rental Housing Protection Act and the Landlord and Tenant Act.

One of the things I want to do is start out with a brief overview of some of our concerns about the general package and then, as much of what I have to say has already been said, I'll probably just highlight some of the things in the written presentation.

The goals set out in the tenant protection package are stated to accomplish a few things, including protecting tenants from unfair or double-digit rent increases, harassment, evictions and those kinds of things; to focus protection on tenants rather than units; to create a better climate for investment in maintenance and new construction; improving enforcement of property standards etc.

Although these goals are commonly shared by many stakeholders in our community, the language of the discussion paper is also attractive. We have to be careful not to be misled by some of the semantics we find in the paper. The impact of the suggested changes have to be understood and our review shows that the proposals are anything but benign. Generally, the package focuses on the individual, so protection is conceived of as an individual concept. The choice of this approach denies the fact that there's a broader impact these changes will have in our community.

We also feel that there are some unsubstantiated assumptions used to justify the amendments. One fundamental assumption is that the removal of rent controls will result in the building of new rental housing stock. I've been listening to these proceedings for most of the day, and both landlords and tenants have said this is not the case. If that's one of the assumptions on which this package is put together, we have to quite quickly abandon that as being truthful, because it's not the case. That's certainly what's been heard time and time again. I am concerned also that the consultation process we're having now is not necessarily going to address those assumptions. What I'm going to do, as I said, is make some points in our written brief and try to pull out some of those assumptions on which this paper is based.

We're going to start with the Rental Housing Protection Act. As I said, I don't want to go over a lot of the points that have already been made. Suffice it to say that it's our position that the elimination of the Rental Housing Protection Act will result in the eviction of tenants from affordable rental housing as landlords seek opportunity to convert rental units to condominium use.

The other thing that's interesting — and this is something the planning department and, following that, the city of Hamilton were very concerned about — is that the elimination of the act does have important consequences for the local planning process. Under the Rental Housing Protection Act, the city of Hamilton has been able to



evaluate the impact of converting rental units to other uses and they've been able to mitigate some of the potential damage to tenants.

In some cases the city has negotiated, reduced or waived rents for tenants and in other situations the city has approved conversions with existing tenants remaining as tenants. In short, the city has taken positions which permit reasonable conversions, while protecting both tenants and the supply of affordable rental housing. The act works for tenants and landlords and there's no justification, in our opinion, for its repeal. It is neither productive nor efficient use of valuable resources to fix a system which is working.

Affordable home ownership is cited in New Directions as a reason for eliminating the Rental Housing Protection Act. This assumes that home ownership is attainable and more desirable than renting. It's unrealistic to assume that the majority of tenants can purchase their units. It is also inaccurate to assume that the majority of tenants prefer home ownership to renting. Therefore, preserving affordable rental housing stock is critical to maximize tenants' housing choices.

Another issue is that, in our opinion, the maintenance of affordable rental housing stock in Hamilton is key to meeting the needs of new workers or new jobs coming into our economy, providing that affordable housing. As the job market increases, we expect them to be in the service sector and low-paying sector, and that's certainly not the kind of wages that people purchase houses on.

The next issue is the Rent Control Act. What we are concerned about, notwithstanding some of the comments of Mr Preston, is that tenants are a highly mobile population. As relationships change and families grow and physical needs change, or people may be beginning new jobs, going back to school — various life changes occur. The provincial government's own Lampert report showed that one in four tenants households move annually and that during the five-year period, there can be up to 70% turnover. So no, it may not be the 100% turnover that was mentioned earlier, but 70% is still a large turnover in units. Although the stated goal is to focus the protection on tenants, the government is in effect eliminating rent control and consequently tenant protection.

Another issue with that is the rent registry. We find it is an essential resource for tenants, because what they can do is not only confirm the maximum rent but also confirm which services are included in that maximum rent. Without the registry, the landlords can be free to discontinue or to charge separately for services that were previously included in the rent. This also is not tenant protection.

We were also concerned that economic discrimination will occur if rent controls are removed. The Ministry of Municipal Affairs and Housing policy staff, in a meeting with tenant advocates, placed pent-up demand for rent increases as high as 20%. This means that rents could rise by that amount should rent controls be lifted. Few tenants can afford such increases. There is no articulated protection from double-digit rent increases despite the stated goal.

Another issue is affordability. It is estimated by the ministry that 80% of social assistance is recipients' rent

in the private market. As well, 30% of all tenants are receiving social assistance. We all know the social assistance rates were decreased substantially last year, and consequently most social assistance recipients are already spending more than their maximum shelter allowance on their housing. In Hamilton a review of welfare assistance clients showed that over one third spent over 70% of their income on shelter. This is unacceptable. We're afraid that this situation will worsen with the removal of rent control.

Another issue is potential harassment. I know it's been raised today several times. What we fear is something similar to what was mentioned by the previous presenter, that in a tight rental housing market the tenants will be particularly vulnerable to landlord demands. In fact, the Hamilton-Wentworth housing statement discussion around developing a more competitive housing market acknowledges that vacancy rates must be at least 3%, otherwise tenants will be held captive to particular landlords.

We are concerned about the loss of rental housing stock as a result of conversions to other uses or condominium use. I am not going to dwell on that. I believe it's been covered quite thoroughly today.

Maintenance and repairs is an issue we're concerned about, and it's another issue that came up at the planning and development committee meetings we had with our local government. What the discussion paper focuses on is the alleged strengthening of maintenance enforcement; enforcement officers being given additional powers; that violation of property standards will be made an offence; and that the administrative process is to be expedited and maximum fines introduced on conviction. However, with the responsibility comes a higher cost for the municipality at a time of reduced transfer payments from the province.

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Enforcement of standards is very labour-intensive, and we don't find that a maximum fine will have very much effect. Perhaps a minimum fine might be in order, as opposed to a maximum fine. There is no suggestion that the increased reliance on the courts will improve maintenance. Reliance on the courts in fact runs counter to the argument elsewhere in the discussion paper that the court system should be eliminated for landlord and tenant matters.

We also don't think these proposals will actually be an incentive for landlords to make repairs. The most proven incentive thus far is being eliminated in the discussion paper, which is the order prohibiting rent increases. This order is automatically served on landlords when they violate property standards, and until the work is completed rent increases are severely limited. In practice, this has meant more attention to maintenance by landlords.

I'll go on to the next thing, the Landlord and Tenant Act. The New Directions document contemplates the removal of landlord and tenant disputes from the courts. Going to the tribunal model is what the paper suggests. But one of the things that happens here is that we lose the jurisprudence we get from the court system, so each tenant who comes up has to make a case without the opportunity of relying on previous decisions and jurisprudence. There's also a suggestion that appeals may be reduced, further limiting the rights and responsibilities of



both parties. The implementation of an alternative dispute resolution model potentially politicizes the decision-making process if the adjudicators are appointed by the province. This in itself has some inherent dangers, in our opinion.

In conclusion, I just want to reiterate that analysis of the proposed omnibus legislation affecting residential tenancies shows that the assumptions which underlie the recommendations for change are unproven. The proposals will mean the end of rent control in Ontario. Tenants will have their rent go up by more than is allowed under the current law. Together with the repeal of the Rental Housing Protection Act, the package will result in less affordable rental housing for tenants.

The use of the word "protection," in our opinion, is in fact a misnomer in this paper. The housing needs of Ontario tenants are not met by the proposals and tenants' rights are eroded rather than protected.

Accordingly we ask that the discussion paper be withdrawn. Future amendments to the current law have to be much more well researched. We would urge that if this is going to go forward, at second reading when it goes back to committee we would like another opportunity on actual legislation or proposed legislation to have a more detailed look at what is being proposed.

With that, I want to thank you very much for the opportunity to make the presentation.

**The Chair:** Thank you. We've got about two minutes per caucus for questions.

**Mr Maves:** Thank you for your presentation. First, just as a comment, thank you for recognizing the local members for being here. I want to add, so everyone in Hamilton knows, that Mr Skarica was with the committee for the past three days and Ms Ross sat on a committee for the first week in Toronto, so there has been some input from your MPPs in this area.

At the start of your presentation you seemed to be quite aware of municipal politics. The previous presenter made a statement that I was going to ask about but didn't have an opportunity. I'm hoping you might know. She said, "To date the city of Hamilton has permitted reasonable conversions while at the same time has protected both tenants and affordable rental housing stock." Would you happen to have any idea how many times they've turned down conversion applications?

**Ms Horwath:** I don't know that that's actually happened. I know this past year there have been 12 applications; however, the bulk of those have been from a single landlord with numerous different properties. Last year I believe there were three applications. It's my understanding that they haven't actually turned any down, that through negotiation, through that ability to have some flexibility with the landlord and the tenants, they've been able to negotiate packages that have been agreeable to both sides.

**Mr Sergio:** Ms Horwath, you mentioned that the city has been able to negotiate some lower rents. How did they do that?

**Ms Horwath:** For conversions? Is that what you're referring to?

**Mr Sergio:** No. I thought your comment was with respect to some tenants who needed assistance and the

city got involved and they were able to negotiate, if you will. That seems to be the new word from the government: "negotiate," that if you can get the landlord to lower the rent to what you want, negotiate. Did the city do some negotiation for some tenants?

**Ms Horwath:** No. I was referring to the cases that have come up as a request for conversion to other uses, conversion to condominium. That's where the city of Hamilton currently has some opportunity to mitigate the damages on both sides, that the landlord can't just in isolation make a decision, because that will impact —

**Mr Sergio:** Okay. I thought it was related to negotiating lower rents for some tenants.

In the few seconds I have left, one of the scopes of the proposed legislation is to practically eliminate six statutes, to incorporate some of them into the proposed one and eliminate the protection of the others. I'll just mention three quickly: the Landlord and Tenant Act, the Rental Housing Protection Act and the Rent Control Act itself. Without these controls, do you think the new proposed legislation is going to have some real teeth in protecting the tenants?

**Ms Horwath:** Definitely not.

**Mr Marchese:** Ms Horwath, thanks very much for the presentation. You heard the discussion I had with the previous two speakers, and I want to touch on the last point we were getting at with respect to affordability. You make some very good points, that few tenants can afford such increases — that's what we say — and that there's an affordability question generally in terms of what's available on the market. Then you say there is no articulated protection from double-digit rent increases despite the stated goal. We all agree. Everyone agrees with that except the landlords and the Tories.

Then you give some interesting statistics that every now and then it's useful to be reminded of. You say 80% of social assistance recipients rent in the private market. That's a high figure. Who's going to protect them from those rent increases? You also state, as we heard yesterday in Peterborough, that over one third spend over 70% of their income on shelter. These are startling statistics. They never talk about what happens to people like that as one single group out of so many other vulnerable people.

Then Mr Preston says, when he was asking the previous unemployed artist whether he was having a hard time finding employment, that that proves the system isn't working so we have, as a result of the fact that the system isn't working for poor people, seniors, people with disability, in this proposal. Do you see anything in this proposal, in this discussion paper, that attempts to deal with the affordability issue?

**Ms Horwath:** No, I don't. I found it interesting earlier this morning to have a landlord — I can't recall his name; from Welland, I believe — who was saying the same thing: that for landlords, rent control works, so why change it? If landlords are saying it's working, if some of the major municipalities that have a high proportion of tenants say it's working, then would you want to change it? I don't understand it.

**Mr Marchese:** That is indeed my question.

**The Chair:** Thank you very much, Ms Horwath. We do appreciate your input this afternoon.



## HALTON COMMUNITY LEGAL SERVICES

**The Chair:** Our next presenters are from the Halton Community Legal Services, Marilyn King and Colleen Sym. Good afternoon, ladies, and welcome to our committee.

**Ms Marilyn King:** Good afternoon, Mr Chair, members of the committee. My name is Marilyn King, and my colleague is Colleen Sym. I have provided a paper which probably all of you have a copy of, so I won't go through it word for word. I know that a number of legal clinics across the province have already appeared before you. We come before you today with respect to the perspective from Halton region, which is where we carry out our services. Halton region, as you will be aware, includes the municipalities of Oakville, Burlington, Milton and Halton Hills, which includes Georgetown and Acton.

As you know, the paper proposes that when a unit is vacated, the landlord can freely negotiate with the incoming tenant, without regulatory restriction. I have brought for you some statistics with respect to the Halton region as a result of our concerns about the impact of the proposals on tenants, particularly low-income tenants, in Halton region.

As you can see, in 1991, according to CMHC, in Halton 26%, or 27,380, dwellings were rented. About 26% of private renters were paying 30% or more of their income on shelter. I did hear a comment earlier today about increasing vacancy rates in some areas of the province. Unfortunately, in Halton that has not been our experience and it doesn't appear to be an improving situation. The vacancy rate is approximately 1% or less. The most recent figures we were able to find were for October 1995. The vacancy rate in Burlington was 0.9%, and my understanding is that the vacancy rate there has decreased over the last few years; Oakville, 0.5%; and Halton Hills and Milton is a combined statistic of 1%. Certainly we find with the tenants who contact us, and they are from throughout Halton, that there is difficulty in finding affordable housing.

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Our concern is that eliminating rent control between tenants will permit landlords to increase rents in Halton, where the vacancy rates are 1% or less. Our concern is that low-income tenants in particular will not find affordable housing. Our experience in Halton is that in most cases the landlords in Halton are charging at least the maximum legal rent — we do see some cases where it's less, but in most cases they are charging the maximum legal rent — and we still see cases where landlords are charging in excess of the maximum legal rent, albeit illegally. I think the worst-case scenario we saw was where a tenant had been charged approximately \$10,000 over the legal limit. Others have been around \$3,000.

In terms of the affordability of housing in Halton, particularly for the low-income, I have provided for you some stats on page 2 on the shelter costs of housing in Halton as compared to the welfare shelter allowance. All of you, I'm sure, know what those allowances are from what you've heard and from the press. But as you can see, in all the categories the welfare shelter allowance in Halton is significantly insufficient to enable low-income

people in Halton to find housing. That certainly is our experience in terms of people being evicted through an inability to pay for their housing. The statistics there are for Halton Hills and for Burlington, which unfortunately were the only statistics we were able to come up with, but Halton does experience a situation where housing is not affordable for low-income people and, as a result, people are evicted.

The concern is that if limits on rents are eliminated between tenants, rental units will become increasingly unaffordable to the poor in Halton. In Halton there is not, as you may be aware, a hostel of any type of all, other than a shelter for women. There is a women's shelter in Halton but there is not another shelter. Actually, just this week we have had experience with a woman who is, unfortunately, living out of her car with an aged mother who at this point has been unable to find appropriate housing. We do see that. That is not the only case we have had. I know it isn't Toronto, but we do see homelessness in Halton and we are concerned that it will increase.

We also have a concern that there will be increased pressure to stay in substandard housing. There is a significant tenant population in Halton region that is tolerating accommodation at a shocking level. I've only illustrated one example on page 3, but we do regularly get contact from tenants who are living in conditions that I'm sure none of us would find ourselves wanting to be living in. The concern is that with the removal of rent controls between tenants, tenants suffering like this will not have the option of moving to alternative housing because they will be locked in by unaffordable rents.

With respect to repairs and maintenance, I do have some comments, which begin on page 3. It deals with the suggestion in the proposal paper that tenants and landlords be able to negotiate above-guideline increases where they are sitting tenants. The concern with respect to that is that contracting out of the guideline amounts for sitting tenants will not result with true consent. Regularly, we see tenants agreeing to do repairs and so on because they don't realize that they legally don't have to and that they have the option of saying no. Frequently landlords unilaterally decide to discontinue services like hydro, in that the landlord decides to stop paying for it although it was initially supposed to be included within the rent. In other cases they require the tenants to do repairs in exchange for a small discount in the rent or no discount in the rent, discounts that are unrealistic given the cost of doing the repairs required.

Tenants often believe there is no choice. They agree only because they believe there is no choice. In a market where rent control is to be largely deregulated, it's essential that a mechanism be left in place to prevent abuse by landlords of this exemption to guideline increases for sitting tenants. Tenants will otherwise agree to pay for services only because they can't afford to move to an apartment where the rent increase is uncontrolled.

I would suggest to you that the agreements to be used in that situation, which will be exceptions to guideline limits on sitting tenants, must be written on a standardized form which clearly informs tenants that they do have



the right to refuse to agree without risk of eviction. It is insufficient that the landlord provides the tenant with something to sign. It must be the case that those agreements have a standardized statement clear to the tenant that they need not agree without risk of eviction. Otherwise, tenants who historically have an imbalance of bargaining power in these situations are vulnerable to unfair pressure and coercion. Further, I'd suggest that in those situations tenants should have the opportunity to go to whatever independent body is going to be created to show that the agreement was without informed consent or was under duress. To deter landlords from coercing tenants into entering into such agreements, I would submit to you that there should be a provincial offence to coerce or harass tenants to agreeing to pay for services or repairs.

I would also submit to you that the provisions which currently exist in section 2 of the Rent Control Act and section 80 of the Landlord and Tenant Act must continue to exist in the new regime. Those provisions, as you may be aware, indicate that the legislation applies notwithstanding agreements to the contrary. We regularly see leases which contain illegal clauses. Tenants sign them because they don't know what the law is and they don't think they have any choice. To protect tenants in that situation who are vulnerable, uninformed or in a coercive situation, there must be a general rule in legislation that overrides agreements between the parties in order to protect the tenants as necessary.

With respect to maintenance generally and moving maintenance over completely to be enforced at the municipal level, we do have a comment on that. Should that be done, and I can't speak for the constitutional impact of what I'm about to say, there is a need that there continue to be, if legislated to municipalities, a minimum property standard level. We find even in our region — Oakville, Burlington, Halton Hills and Milton — that there is a fair variation between the level of maintenance required by those bylaws. I would suggest to you that the minimum standard across the province must be at least the equivalent of what exists under the Rent Control Act and regulations at this time. It's a reasonable standard of repair. It addresses various issues of repair that regularly we see as problems in apartments.

I would ask you to recommend that there be a minimum rental housing maintenance standard — that's a mouthful — across the province for those municipal bylaws which are going to be enacted. If they are not a minimum standard level across the province, it's of no real value in many situations to have it enforced. It has to be a decent minimum standard across the province.

In terms of enforcement of those housing standards, I would submit that the enforcement mechanism must be significant. Penalties must be very strong to send home to the landlords who don't do repairs through general deterrence that inadequate and unfit maintenance will not be tolerated in this new regime. Particularly with partial deregulation of rent controls, orders prohibiting a rent increase for a failure to comply with a work order, which does exist under the current system, will have a greater deterrent effect. If a landlord can put a rent up by an unlimited amount between tenants, then an order prohibit-

ing a rent increase as a result of failure to comply with a work order is a more meaningful deterrent. I would suggest as a result that this type of enforcement proceeding is something that should be retained, in addition to municipal enforcement.

In terms of vital services, very quickly, it already is an offence under the Landlord and Tenant Act for a landlord to cut off vital services like heat, hydro, water and gas. I would submit to you that this should be retained because we see that happening regularly in situations where tenants fall into arrears of rent. We certainly have a problem getting police to enforce it as a provincial offence, but I would submit to you that it should be retained as an offence because we do see that as an ongoing problem.

That leads to my next comment in terms of harassment enforcement. The proposal paper acknowledges that there is a concern about harassment of tenants. I'm sure you've heard many times as well that if there's an incentive for a landlord because they can get a higher rent from a new tenant, there is an incentive for a landlord to harass the tenant out. I say that because we do see landlords who harass tenants already. I'm certainly not proposing to you that all landlords do, but particularly in some areas of our municipality — Burlington comes to mind — we do see landlords who harass tenants and abuse them and emotionally upset them. I would suggest that the enforcement mechanism here has to be significant enough that there are serious general deterrents in terms of this type of possible behaviour by landlords, because the behaviour is already there and my concern is that these changes in the law are going to increase that.

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There's a strong public interest in punishing and deterring harassment by landlords, and tenants certainly must have security of tenure. As I've indicated, vacancy rates in Halton are already 1% or less, and landlords in Halton are already neglecting their buildings. We have had reports from tenants, particularly again in Burlington, of incidents where the tenant's furniture was thrown off the balcony, where the landlord is breaking in the door to tell the tenant they have to get out, various things like that. It's a serious concern. These landlords must be deterred. With respect to that type of behaviour, I would submit there's a great need for change based on the landlords that we see. Again, criminal law is not there to deter all people in Ontario, but it is there to deter the potential offenders, and it's those potential offenders I would ask you to keep in mind when you're changing this legislation.

Comment has been made with respect to discrimination. It's tough to come up with a solution to that, but where a landlord has free rein in terms of setting the rent and a tenant comes who is of ethnic background or the wrong colour or on welfare or the wrong age, the potential certainly is there for the landlord to discriminate. Again, that type of behaviour we can only hope to address with respect to general deterrence and the penalties for that. Being able to prove those is a problem I'm not going to be able to solve, but I'd ask you to keep in mind again general deterrence.



With respect to the enforcement agency, I would submit to you, based on our experience, that an administrative body like rent control is not sufficient to deter landlords. The enforcement section of rent control has not, in our experience, been effective in deterring the commission of offences under the Rent Control Act. We have also found with respect to that act that providing legal advice is not their strong point. But the perception of landlords towards administrative bodies such as a government branch or an administrative body like that has not been successful. I won't go through all of the information I have in my paper, but I draw that conclusion from our experience where we did not have a municipal bylaw in Burlington requiring repairs and we were dealing with the Ministry of Housing and rent control trying to get things done. The landlords simply were not deterred by that.

Again, I won't go through all of the statistics, but I have provided them for you on page 7, where it's indicated how successful court action was as a deterrent to landlords. That is what we must keep in mind where changes are to be made at this point. The conclusion even of Burlington city staff at that point was that landlords do resist completing work when directed by the ministry, but they do it when directed by municipalities, my point being that prosecution is a successful deterrent.

Provincial offences enforcement by police is an area that also does need to be addressed in the new legislation. The enforcement agency, I would suggest, must have sufficient profile and reputation to be taken seriously. Anti-harassment provisions must be legislated as provincial offences.

I would submit to you, based on our experience and, again, some of the few but bad landlords we've experienced, that the enforcement agency must be the police. Landlords do respond to police warnings; they do respond to police charges. They are deterred by the consequences of prosecution. It's respectfully submitted to you that a provincial offence enforcement mechanism, with investigation and/or charges by the police and prosecution by provincial prosecutors, has an inherent deterrent effect. Legislation containing provincial offences offers deterrence of a possible prosecution which carries with it punishment, a trial, court appearances and potential bad publicity for the landlord. The statistics are there to show the effectiveness of deterrence in a situation dealing with a bylaw in Burlington. I'd be happy to answer questions on those if you have some.

My point is that tenants, particularly low-income tenants, must not be left vulnerable and that provincial offences, with inherent deterrence and punishment, are essential to protect them. A new enforcement agency would therefore not be required. The cost would only be a public advertising campaign about the anti-harassment offences and the significant penalties. If the campaign is successful enough in advertising and making landlords aware of this, the deterrence should have some effect, and the administration is already in there. If it's going to go to court and be prosecuted anyway, in my submission the cost is no worse than having a provincial prosecutor do it, which is somebody who's experienced at doing it anyway and is more effective than creating some new

body to do it. I would ask you to consider the police in that way.

With respect to the new procedure that's being proposed, we have a few comments on that.

With respect to rent control, again I would submit that this is not the route to go. My understanding is that they had about 227 applications processed at rent control in Hamilton last year. In terms of capacity and volume and speed, we currently see approximately 50 new landlord and tenant applications at the Milton courthouse where we go as duty counsel each week. Court isn't there absolutely every week, but on those weeks that it is there, which is most weeks of the month, we see approximately 50 a week. So I would submit to you that rent control is not the appropriate body to deal with this.

We do have a concern that there be sufficient legal expertise. If you are intending to take these matters away from the adjudicative system that's there, we would ask that you ensure that tenants are protected, and landlords too, by sufficient expertise in adjudication and legal analytical ability. Particularly based on the administrative tribunals we deal with in other forums, it's very inefficient and very time-consuming to have people who don't have sufficient expertise to adjudicate and mediate appropriately.

Our other major concern in Halton particularly is with respect to access to this new system. In Halton there is no north-south transportation from north Halton to south Halton. A lot of the low-income people we deal with have a major problem even getting to Milton to the courthouse for tenant matters. Getting to somewhere like the office in Hamilton, where rent control is, or Mississauga, itself is an inherent barrier to those tenants achieving justice. I'd ask you to consider areas like that. I know people think we're next door to Toronto or we're next door to Hamilton, but low-income people do not have public transit south and north in Halton, and geographical access is an essential element of this new procedure.

As well, at our particular clinic, because of our numbers of low-income people and other tenants throughout Halton, we do promote self-help by tenants. We have developed kits for use by tenants in certain types of cases to ensure they have legal advice but also the necessary documentation to access the system without the necessity of legal representation. Any system that replaces the current structures to resolve and adjudicate landlord and tenant matters must, if you are to encourage self-help and people representing themselves, both landlords and tenants, without the necessity for legal representation, be both geographically accessible and user-friendly.

One comment on the rental housing protection. I know the comment was made already by the previous presenter and I won't go into it in depth, but the vacancy rate in our area is 1% or less. My understanding is that the vacancy rate in Burlington is already decreasing, and I would submit to you that there is a concern that if there is no control on loss of affordable rental housing, it could potentially decrease the affordable rental housing in our area.

Just one other comment on repair. I know the recommendation in the paper is to eliminate a rent registry. That certainly is a concern because, as I've indicated, we



already see landlords who charge illegally high amounts of rent. Tenants will not have that protection with the elimination of a rent registry. But also with respect to a regime where rents are more unlimited, with the assumption that landlords will do repairs and there's an enforcement mechanism to ensure repairs are done, if that fails and there is, for example, a work order out in place, a rent registry is a requirement for new tenants coming into a place so they can at least check to see if there's an outstanding work order. If not the rent, at least they can check if there's an outstanding work order and they will know that notwithstanding what the landlord is asking for rent, there is a history of work problems with that landlord. The tenant might at least have the option of being informed about whether they take the apartment or not.

We certainly see situations where there is an outstanding work order, the landlord doesn't do anything about the repairs and the tenants keep going on in there. We can't disclose that information because we would be breaching our confidentiality to disclose the information, but it's a very frustrating situation to see tenants turning over in shoddy apartments and little protection for them. If the rent registry is eliminated, there is no means for tenants to check and see if there's an outstanding order prohibiting a rent increase or an outstanding order that a landlord do repairs. A rent registry is required at least for that, although our experience has been that a rent registry is an essential element in order that a landlord doesn't abuse the situation. That is a concern, but it arises even more so with respect to tenants needing to know, if they're going to pay an escalated rent, that there aren't outstanding work orders on the building.

**The Chair:** To let you know, you are down to your last minute.

**Ms King:** I think those would actually be my comments. I think my conclusions are fairly self-evident on the last page, but the concern is that tenants are vulnerable. We deal with them every day. It is a reality that there are abusive landlords. The system has to be put in place for the worst landlords so that those worst landlords are addressed. That requires a strong enforcement mechanism and, I would submit to you, the involvement of the police and the administration of justice through that avenue to ensure that offenders are caught. If landlords are going to be able to put rents up, at least we need to keep harassment and abuse of vulnerable tenants down.

**The Chair:** Thank you very much. We appreciate your coming forward today and giving us your input.

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### SHERKSTON SHORES

**The Chair:** Our next presenter is Ian Wilbraham, the divisional director of Sherkston Shores. Good afternoon, sir. Welcome to our committee. The floor is yours, sir.

**Mr Ian Wilbraham:** Thank you. My name is Ian Wilbraham. I'm a director of the company which owns Sherkston Shores. Sherkston is a campground in Port Colborne. First we'd like to thank the members of the standing committee on general government for providing us with the opportunity to address you today. We certainly applaud the government's efforts to streamline the current legislation governing landlords and tenants.

The campground industry is a large, thriving business in Ontario, employing some 8,000 people. There are approximately 1,200 privately owned campgrounds in the province, with a total of 110,000 camping sites, of which two thirds are occupied seasonally. Generally that would be May 1 until the end of October on an intermittent basis. In many cases the seasonal trailer remains on the campsite also during the winter months for storage purposes but is only physically occupied during the summer months.

Last evening in Peterborough you heard a presentation from Sheron Burgis, the president of the Ontario Private Campground Association, of which we are a member. We fully support the association's suggestions and are here today to reinforce these suggestions and introduce our business to your committee.

Sherkston Shores has approximately 1,100 fully serviced campsites, plus up to 600 partially serviced and non-serviced sites. It is located in Port Colborne and is privately owned by an experienced campground operator who also operates campgrounds in the UK and one in Sarasota, Florida. Sherkston is an ideal vacation setting, catering to families by providing activities for all age groups. The highlight of Sherkston Shores is the beautiful beach, two miles on Lake Erie, boasting every form of water sport, as well as an enormous variety of non-water-related activities, from horseback riding to mini-golf, from ballroom dancing to discothèque, from children's programs to craft shows.

Accommodation at Sherkston Shores is provided in park model trailers, travel trailers and tents. Sherkston Shores provides affordable camping vacations to families from Ontario and western New York. In fact, 40% of our customers are from the USA, providing American tourist dollars to this province's economy. We specifically do not offer sites to mobile homes; in fact, mobile homes are prohibited from the site by local bylaws.

Page 3 of my presentation contains definitions of "mobile homes" versus "park model trailers," and from these definitions you will observe that mobile homes provide permanent accommodation to individuals as a primary residence, whereas park model trailers provide temporary vacation accommodation.

Just to give you some statistics, Sherkston provides employment opportunities in the Port Colborne area for 125 direct employees plus 45 full-time and 30 part-time people working either in the park concessions or for contractors on the park.

The Sherkston Shores site was acquired, in 1988, by its current owners for \$8.5 million, and the total investment so far in the resort exceeds \$12 million. This additional investment has provided resort-style amenities consisting of a main street, four tennis courts, a basketball court, a roller hockey court, a swimming pool, a mini-golf course, a baseball diamond plus park model trailer and RV sites and extensive landscaping.

Our concern, the concern of Sherkston Shores and similar private campground operators, is the ambiguity and lack of clear definitions in the existing legislation which leave the legislation open to interpretation. Specifically, the legislation is ambiguous regarding the vacationing and travelling public and mobile homes versus park model trailers and other types of trailers.



Sherkston Shores is a campground. Trailers on the site are not actually used or intended as year-round residences but are sited on campsites for which a seasonal licence fee is paid. Our business is in the tourism sector of the economy. As business operators we have no desire to run residential communities, nor is it the desire of our local municipality, and they have defined this in their official plan and bylaws, specifically because the local infrastructure — schools, roads, hospitals etc — is only designed to meet the needs of our customers as vacationers and not as though they were permanent year-round residents. Further, the Landlord and Tenant Act lists as an exclusion "accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home."

The Landlord and Tenant Act, regulation 705, lists classes of accommodation deemed not to be residential premises for the purposes of the act. This regulation says, "Premises rented as a vacation home for a season or temporary period not exceeding four months."

Accommodation at Sherkston Shores is clearly of the seasonal type. The park operates for six months of the year. Services are cut off between November 1 and April 30. Trailers are available to the trailer owners during this wintertime, only with special permission of Sherkston, for a maximum of three days. Industry-wide practices define a six-month camping season, therefore reference to four months is unrealistic and confusing in this context.

As you can see, the above leaves some confusion as to whether or not Sherkston Shores or other similar campgrounds should be regulated by legislation which is designed to deal with residential tenancies. Accommodation at Sherkston Shores is of the park model trailer type and does not fit the definition of a permanent residence, taking it outside the jurisdiction of the Landlord and Tenant Act. Sherkston Shores clearly fits the exclusion where it says "...accommodation provided to the travelling and vacationing public."

We request that the committee recommend that exclusions in definitions regarding mobile homes, as distinct from park model trailers, vacation homes, campgrounds and trailer parks, in the legislation be more clearly explained and efforts be made to eliminate any ambiguities.

We would also like to draw your attention to the fact that these requests reflect what is already being done in a multitude of city bylaws across the province. It is our belief that the landlord and tenant and rent control legislation was never intended to protect campground owners and their vacationing customers, and we ask that the clarity with which the legislation is being rewritten be extended to include the definition and exclusions pertaining to mobile homes, campgrounds and trailer parks.

I appreciate the opportunity today to place our concerns before you, and now would be happy to answer any questions that anybody may have.

**Mr Sergio:** Thank you for your presentation. I think we have received the same presentation a couple of times from other members of ORTA. Are you a member of ORTA?

**Mr Wilbraham:** Of the OPCA, yes, and also of ORTA.

**Mr Sergio:** They have expressed similar concerns. I can only make a comment that this is an area that I think deserves some attention as it affects you in a particular way that is different from the way it affects tenants in a high-rise. I hope the government members are listening and I will be able to recommend to the minister some revisions, at least to have a second look at the legislation as it affects your type of business.

1410

**Mr Marchese:** We did hear from another person yesterday and we didn't realize there was a problem until the person came to us explaining exactly what you've said here today, so obviously some of you have had this problem enough to get into this committee to fix the problem. As a solution I guess you would see a reduction of the time period as something that might help, or is there some other type of language that you're looking for?

**Mr Wilbraham:** What we see that would help, and I think the lady last night also mentioned this, is that the four-month time period should be removed from the legislation on the basis that the exclusion in the legislation already talks about vacationing public and vacationing activity which by definition, and certainly in the camping context, could be any time period. Four months is a rather arbitrary time period.

**Mr Marchese:** It seems to me to be something that can be corrected. I was going to ask the ministry staff. Perhaps Mr Hardeman wants to comment. It seems to me it is a matter that can be dealt with by some language that can accommodate this particular problem they are raising. I'm not sure whether Mr Hardeman has thought about it or whether he would like to ask the staff how that might be accomplished.

**Mr Hardeman:** I think it has been brought to the attention of the staff, and in writing the document it is important to recognize that the description of camping and recreational uses be made clear so it protects all the tenants but not necessarily the vacationing public. Having done that, it would not require a length of time at all in the legislation, so I hope that's what the government would be looking at.

**Mr Marchese:** So it appears that we will not be able to solve your problem.

**Mr Maves:** Thank you for your presentation. It's rather obvious that the Landlord and Tenant Act and other acts weren't meant for campgrounds. I think it's kind of disappointing that some people have tried to take advantage of those acts for whatever reasons. That is something that should be dealt with.

I would like to thank you for your company's contributions to the Niagara region economy. You've made several capital investments, it appears here, up to \$12 million, since you've acquired the site. When you make those capital investments, do you pass them on to clients for renting a site?

**Mr Wilbraham:** Yes. Basically the cost for renting a seasonal site is a licence which is renewed annually, so the trailer owner would pay annually for the use of that site. Our charges, like any business in the tourism sector,



are based on the market, what the marketplace can bear, and as a responsible business owner and operator we have to take into account the capital we've invested in the business, which is considerable.

**Mr Maves:** Right, and some of the investments, as you say, are substantial: swimming pool, mini-golf course, part of the tourism package. Had you been kept to 2% or 3% increase in the fees you charge, would you have been able to afford to make some of these major investments?

**Mr Wilbraham:** We have looked at our increases since 1988 when we acquired the site, and because of these problems that have arisen particularly elsewhere, we have reviewed the increases in our charges together with the capital that we have spent over the years just to see where we would stand if rent control did apply. What that analysis has shown, taking into account the capital expenditures over the whole period since 1988, is that, broadly speaking, in any event we would be within rent control guidelines, not necessarily on an individual year-by-year basis, but as a whole we would actually be within the guidelines.

**Mr Stewart:** I can't understand why it would even be under the Landlord and Tenant Act, period. Why would it not be under municipal guidelines? Depending on the municipality, they have extended times in various ones. Why would we not put it under the sole direction of municipalities? Would that work?

**Mr Wilbraham:** I think that would be helpful, and certainly under the recent bill the government has introduced, with licence fees and user fees, a lot of municipalities, including Port Colborne, where we are, have now introduced a licence for campgrounds. Within the terms of that licence the municipality has dictated a lot of things as to how we operate the business, lengths of stay and those types of things. So yes, that would seem a sensible way for the business to be controlled, and the same with zoning. Zoning is very specific to what we can do and what we can't do on the site.

**The Chair:** Thank you, Mr Wilbraham. We appreciate your attendance and your input here today.

#### UNITED SENIOR CITIZENS OF ONTARIO, ZONE 14

#### SENIOR AND FAMILY NETWORK OF HAMILTON-WENTWORTH HOUSING AUTHORITY

#### STEELWORKERS ORGANIZATION OF ACTIVE RETIREES

**The Chair:** Our next presenters represent the United Senior Citizens of Ontario, Gwen Lee and Bill Fuller. Welcome to our committee. You have 20 minutes. The floor is yours.

**Mrs Gwen Lee:** We're going to use every one of the minutes. First of all, I'd like to introduce myself to you. My name is Gwen Lee, and I'm here to speak on behalf of the United Senior Citizens of Ontario, zone 14, and also the Senior and Family Network of Hamilton-Wentworth Housing Authority.

I will tell you what I have prepared. One of the very few things I have to thank this government for is being able to be present at this hearing. In 1975, Bill Davis

promised to introduce rent control if he became Premier. Once elected, he kept his promise, and for that I respected him.

This present government promised in the Common Sense Revolution that they would not hurt seniors and the disabled. Either their vision is impaired or they just don't want to see the hardships they are causing. Obviously they don't believe in honesty and integrity, since the only promises they have kept have been the ones hurtful to the most vulnerable.

The Progressive Conservatives said they would get out of the housing business. Because of the present state of the economy, we need more, not less, rent-geared-to-income units. Governments have an obligation to help those who need it.

A report released in March of this year mentions that public housing costs the government — that's the taxpayers — \$190 a month per unit in Toronto. Here in Hamilton the final cost to the taxpayer is, on average, \$160 per month per unit in public housing. If public housing is sold, it would cost many times this amount to subsidize a tenant in a decontrolled unit.

Seniors would be protected as long as they don't move, but seniors do move for reasons such as when their family moves and their support system is no longer there, when their spouse dies, when they become disabled or to be closer to doctors, hospitals, shopping etc. Under this deregulation proposal, seniors may then be forced to accept less desirable accommodation.

A save-rent-control initiative spearheaded by Barbara Hall in Toronto resulted in 11,600 postcards delivered to the Legislature from tenants in her area. Prior to this, Hamilton, with only 5,200 public housing units and no funding or financial help from any political party, sent 2,859 letters protesting the sale of Ontario Housing Corp units. This means that over 50% of Hamilton's public housing tenants were concerned enough to take action against this government's proposals, knowing that the sale of their homes would force them into a rent decontrol situation.

Vacancy decontrol will have an adverse effect on every tenant, including those in care facilities. Care homes are not retirement nor nursing homes. A care home is housing for people, including seniors, with differing disabilities, who are independent but who have some care needs. A care home can be a unit where a tenant pays rent that may or may not include some care options. The tenant should have the right to purchase the level of care that meets their needs. The landlord should never be the caregiver.

Entry — this is entry of the unit they live in. The rules should be the same for care homes as in any other tenancy except where there is a written agreement between the care home tenant and the landlord. Entry by a caregiver or caregivers should be the result of a written agreement between the parties concerned.

#### 1420

Shorter notice of termination by the tenant may be acceptable in some cases, for example, entering a long-term facility. Short-term absences should have provision for security of tenure for the tenant. For instance, if someone goes into hospital, they should have the option



of retaining their rental unit so long as the rent is paid in a timely manner.

**Transfer to alternative facility:** A landlord must not be the one to decide that there is a need for more or less care. This decision must be made by the tenant in conjunction with their doctor and the appropriate care agency or agencies.

**Appeal tribunal:** I feel the court system is the best, but if a tribunal is set up it should be comprised of competent, independent individuals serving staggered terms of up to five years when first established. This will ensure that all terms do not end at the same time. A dispute resolution system could save time and money, but whatever system becomes law, there must be something in place so that tenants have the same clout as landlords when facing this procedure. Otherwise, how can seniors and others on lower fixed incomes pay for agents, user fees and research, when there is no rent registry, for an appeal to a tribunal?

As a tenant in Ontario, I am entitled to quiet, peaceful enjoyment of my unit. This is impossible due to the continual pressures and uncertainties imposed upon me by this government's policy, and this government is my landlord. Thank you.

**Mr Bill Fuller:** My name is Bill Fuller, and I do the coordinating for the retired seniors of the United Steelworkers of America throughout the province. I'm also the vice-president of United Senior Citizens of Ontario, zone 14, which is located in Hamilton. Both Gwen and I are members of both of those organizations, and our concern primarily centres on the senior citizens and certainly the low-income earner.

The Steelworkers Organization of Active Retirees is an international organization of retired Steelworkers members and their partners or spouses. The organization was created in 1985 and currently represents 65,000 members in Canada and the United States. SOAR chapter 10 is located in Hamilton at the steel centre on Barton Street.

The United Senior Citizens Organization of Ontario is a provincial organization, and they're an organization of retiree clubs throughout the province. They cooperate with other provincial organizations whose aims and objectives are the welfare of senior citizens. Zone 14 is also located in Hamilton.

We are of the opinion that the government's tenant protection legislation will take away the rights that seniors have under the Landlord and Tenant Act, the Rent Control Act and other rights afforded by other legislation. We're concerned that the bottom line is to eliminate rent controls and have some landlords charge as much as they can as soon as they can. We're concerned that seniors will be forced to move to permit some landlords to implement dramatic rent increases. These revisions will be yet another loss in available and acceptable housing as we now understand it.

Senior citizens and citizens at the low end of the income scale will undoubtedly be most affected by the revisions. Care home residents will also be at the mercy of the landlord, with economic, easy and speedy evictions.

Care home tenants should continue to enjoy security of their accommodation as defined in the Rent Control Act

and the Landlord and Tenant Act. Care home operators should continue to be responsible for providing both the services they provide and for any meals etc that go along with that in accordance with the Rent Control Act.

The province, in terminating the cooperative and non-profit housing programs in Ontario, has denied thousands of seniors their option for housing in their retirement years. Housing is one of the basic features that determines the quality and the standards of its citizens. Ontario, under the current government, seems to be intent on totally eliminating all the structures that have been in place to provide the level of housing we are accustomed and entitled to. This is one area that Ontario residents should continue to enjoy, particularly the residents in the low-income brackets.

We in Ontario must keep a comprehensive strategy in place on housing, one that fulfils the needs of all citizens. The government of the day has that obligation to its citizens. Low-income seniors will be put at risk of losing affordable housing in our province. Expensive rental housing will ensure more poverty, ill health and social isolation for low-income citizens.

The current rent control system is a safeguard against unscrupulous landlords and should not be dismantled. We believe the Rental Housing Protection Act should remain in its present form with no changes whatsoever. This is the only protection low-income seniors and tenants who are forced to rent have for their housing needs.

Many seniors are of the opinion that the government has turned its back on them. They looked at Bill 26, the omnibus bill, that gave to the government and its staff the right to pick and choose which hospitals would close or continue to operate. Seniors looked at the drug benefit revisions with the user fees for seniors and the low-income citizens, and I might add that in their haste to put that program into effect, let me assure this government that there are many thousands of seniors who are forced into the position of being accountable for that \$100 deductible. You did a very poor job in putting that in place. I think you deferred it for a period of a month or six weeks; you should have taken, I don't know, maybe another four or five or six months and done it right. A lot of people, a lot of seniors, a lot of low-income people just can't afford that \$100 deductible and you've put them at risk of not getting the medication they should have, and I think that's important.

There's another change that affects seniors and that has to do with the change in the legislation that affected the RRSPs that some seniors are fortunate enough to have — not all of them, but some of them have them. That revision forces a senior to withdraw money from that fund at age 69 rather than 71 or 72.

We think it's high time the government took a closer look and listened to the citizens. Health care and housing are key ingredients that make our province and our country what they are today. It's a shame to watch our province systematically disintegrate at the hands of the Harris government. Seniors and low-income citizens have a vote and a long memory, and I'm sure at some point in time they'll equate those. Seniors in particular will increase dramatically in the next few years. One should



take a look too at their major role in the election and the election campaign in the United States between the Bush and Clinton camps. Seniors played a very integral role in that, and the Steelworkers were a very integral part of that campaign. I am confident that they will take these into consideration at the ballot box in the future.

Thank you very much for the opportunity to make the presentation.

**Mr David Christopherson (Hamilton Centre):** Thank you very much, Bill and Gwen, for your presentation. For the benefit of the committee, both Bill and Gwen are well known in this community as leaders in terms of representing seniors' issues and issues for the disabled and other vulnerable people in our community. It's good to see you both here again consistently representing your members and our fellow citizens.

I also want to make quick reference to a comment Andrea Horwath made, that the title of this as any kind of tenant protection is a misnomer. I've just spent two weeks on the road travelling all across Ontario with another misnomer, An Act to "improve" the Employment Standards Act, and inside that act once again this same government is taking away rights of the most vulnerable in our community. They've done it with the 22% cut to the poorest of the poor. They're going after the disabled in terms of WCB. The \$8-billion tax cut is felt mostly by working people and those who are most vulnerable, and here basic rights of shelter, the rights of protection from any outrageous rent increases are now going out the window.

I want to focus on one key area that Rosario has said he's heard over and over across the province, and that's the fact that so many people, particularly seniors, I think, will feel trapped; that if they want to move into an available apartment, that place will now be open for uncontrolled rent increases, and in many ways seniors will not have the option to move because they can't afford what those new rents are going to be. Do you see that happening to seniors here in Hamilton?

**Mrs Lee:** Yes, definitely.

**Mr Fuller:** Yes, I believe it will. When working people retire, most working people have a drop in income — not all people, but most people do. A lot of people still don't have pensions. When that happens they take a look at their income, and certainly the income goes down. If they're fortunate enough to have a house that's paid for and they don't have any RRSPs or a great many resources, that house can be the key to the longevity they expect in their latter years, and certainly that's getting longer, so one needs more money. If one doesn't have it, one has the option of selling the house and going into rental accommodation. I think that's an important factor that for the most part may be overlooked.

1430

**Mr Wettlaufer:** Thank you for your presentation. One of the things I would like to comment on before I ask you a question is that the \$2 co-payment on the drugs — we were the last province in Canada to do that. It's one of the few things that is allowed by the Canada Health Act. What it did was allow us to add 140,000 previously ineligible people to the Ontario drug benefit plan, the

Trillium drug plan, without adding any additional cost to the plan. Also, the low-income seniors are protected under that.

I want to ask you about care homes because this is a particular interest of mine. Last year during the election campaign I called on a number of them in my riding in Kitchener, and one of the comments I heard most often was that the privacy provided under the existing legislation did not permit these people to have the security they wanted and that their families wanted. Could you comment on that?

**Mrs Lee:** I just don't understand how people can say that the system needs that much change. I've been to conventions and workshops and all kinds of things where care home tenants have been. They talk about garbage-bag evictions. We don't need to cover that; you've heard that everywhere you've been, about garbage-bag evictions, and you all know what that means. It can be as simple as somebody saying, "I don't want that toast; it's burned." The other residents are sitting around the table and they're accused of being a disturber, and when they come home they find all their possessions outside the door and out they've gone.

As far as privacy is concerned, as I said in my submission, there should be an agreement. If the tenant wants and the landlord thinks they need the option to go in almost at will, that should be written in the agreement.

**Mr Wettlaufer:** But that's not allowed.

**Mrs Lee:** No, but it should be in.

**Mr Sergio:** Thank you, Mrs Lee and Mr Fuller. A previous presenter this afternoon from the community legal clinic of the region of Halton, I believe, said that the vacancy rate in north Halton is 1%, in Burlington 0.9%, in Oakville 0.5%. Would you say that in those areas, let alone Toronto, because that's another kettle of fish, there are many seniors and people in high need?

**Mrs Lee:** I think Hamilton is just about on a level with those. I believe it's 1% vacancy. I'm not sure on the figures, so I wouldn't want to commit myself.

There's another comment I'd like to make. When I came to Canada in 1946 — that's almost 50 years ago — I lived in Toronto and I lived in one room, with an orange crate, if any of you younger people know what that is, nailed to the outside of the window to keep my food in. I'm afraid if this keeps up it'll be either living like that in one room or else living in a tent in a park. I'm not being facetious. Hamilton-Wentworth Housing Authority tenants are now paying 29% of their gross income for rent. The next lease, it will be 30%; the NDP put it at 1% over the five-year period. I wouldn't be surprised if you people put it up too. You've got to recover costs, we realize that, but that's getting close to a third of our income, and there are a lot of very low-income people.

**The Chair:** Thank you very much. We do appreciate your coming forward this afternoon and giving us your input.

**Mr Fuller:** We're of the opinion that if the controls are off, there will be more accommodation available but at a much higher rate.



## HAMILTON MOUNTAIN LEGAL AND COMMUNITY SERVICES

**The Chair:** Our next presenter is Hugh Tye, executive director of the Hamilton Mountain Legal and Community Services. Good afternoon, sir, and welcome to the committee. You have 20 minutes.

**Mr Hugh Tye:** I appreciate the opportunity to appear before you this afternoon. We're one of the over 70 community legal clinics funded by the Attorney General's office and the Ontario legal aid plan operating in the province. We serve the Hamilton Mountain region and some of the outlying communities, including Stoney Creek, Dundas, Ancaster and parts of the municipality of Haldimand-Norfolk.

We are predominantly mandated to serve a client base of limited income, including those who are in receipt of social assistance and who received a 21.6% cut last October.

Since our inception in 1985, we have provided summary advice to thousands of tenants and representation to hundreds, if not thousands, both in the courts and the administrative tribunal dealing with rent review, and more recently rent controls, and on appeal in Divisional Court.

I would like to focus my presentation today on that client group, that constituency, as we did in our written submission, which has been distributed.

Our tenant clients are feeling genuinely threatened by this proposal, and I think that needs to be understood. We felt obligated to comment on the proposal and to speak out on behalf of those to whom we provide service. This is why we have provided the written submission, and I hope you will have the opportunity to note some of the comments we have made.

I know that most of what I'm going to say you've heard before. You're looking at me as another tenant advocate who's going to drone on against this proposal. With all due respect, I must confess that when I was told I was going to appear on Friday afternoon at 3 o'clock, the end of the second week of hearings, heading into a long weekend at the end of our short summer, I was a little worried. Again, I mean no disrespect, but after two weeks, I'm sure you think you've heard it all if in fact you haven't. I wasn't sure that what I was going to say was going to be anything new, and if you read my brief in fact it probably isn't.

I thought, how can I make an impression? Unfortunately, I don't tap dance, so with your indulgence, I would like to make a very short audio-visual presentation which, if nothing else, may provide some unwanted stimulation to keep you awake for the rest of the afternoon. The presentation is entitled *Exploding the Myths*. The document you're very familiar with, of course, *New Directions*, contains many myths. I'm going to limit my discussion to five.

The first one is that the proposed omnibus legislation will protect tenants. Our analysis is that there are minimal, if any, protections provided that are new. In fact there's a great deal of erosion, if not the elimination, of protection. As many people have stated before you in the last two weeks, vacancy decontrol, although perhaps more palatable, doesn't get us past the fact that the aim seems

to be to abolish rent control in the long run. The message to tenants is, "You move, you lose." The protection is gone. The evidence came to the ministry from the Lampert report of last year.

The message also for tenants who are going to be held captive within their apartments in order not to pay more rent is that they indeed are going to continue to pay larger increases than under the existing system, which is also contrary to promises made to tenants by the current government. I refer directly to the suggested increase to 4% of the cap on capital expenditures and the fact that the costs-no-longer-borne policy will be eliminated, and also passing through the extraordinary costs in all cases.

1440

For those on a fixed income, and certainly that's the client base I'm talking about, people can't afford to pay even the 1% increase. This is not protection. The language suggests it is, but it clearly isn't.

The second point is that there is the incentive to harass tenants. I think much has been made of that. We are deeply disturbed by this recommendation, given that the ministry acknowledges that these changes will encourage illegal activity. We see it now. This isn't new, but it's going to escalate. For many of us who advocate on behalf of tenants, there is no practical remedy in many cases even now to deal with this sort of harassment. As an example, on a Saturday morning, if the landlord has turned off the power, what is a tenant to do? The food in the freezer is thawing. There's no one to contact. Yes, the legislation says this is illegal and you can bring a charge. This is well after the fact and it doesn't get the power on Saturday morning when there's no one available.

The third point under this myth is that the rent registry is going to be eliminated. This is a critical protection and I hope this government is not going to remove this protection. With regard to that, it invites discrimination, and again much has been made of this.

I'd like to draw your attention to a resolution passed by Hamilton city council this week, August 27, 1996. It's the appendix to my written submission. The city has called upon the province to leave in place the Rent Control Act, the Rental Housing Protection Act and the Landlord and Tenant Act. However, if it continues, they have a number of recommendations, including that there be protection for tenants from discrimination during the negotiation period. Clearly we recognize in this area that there is going to be some discrimination as a result of this change.

That brings us to the second myth, that abolishing rent controls will stimulate construction. As you're fully aware, the Lampert report doesn't suggest that the removal of rent control is sufficient to stimulate construction. The minister has admitted that in presentation to this committee, as have a number of landlords. Also, I understand that a landlord lobby group, the Fair Rental Policy Organization of Ontario, has admitted that it is not able to build affordable housing for low-income tenants. This isn't a good/bad thing; it's a reality. The factors that lead to this are purely economic: the land costs, the taxes, the development charges, the construction costs — the list goes on. Rent control is not a major disincentive with all those other factors taken into consideration.



The city of Toronto did a study and they came to that conclusion. Here in Hamilton-Wentworth the housing report of 1995 certainly reached that conclusion and said it would be naïve to assume that the private market is going to be able to fill the gap. There is a five-year moratorium, as you know, under the existing legislation for new construction, so this has not stimulated construction. In other jurisdictions where they have eliminated rent controls, there's been no building boom. The housing that provides accommodation for a significant portion of low-income tenants was that built in the 1960s and 1970s and it was built because of significant government incentives.

Given this analysis, you have to ask the question, why decontrol the market? Who is this really going to help? Certainly it's a withdrawal of the key protection for tenants and that's what this whole discussion paper is supposed to be designed to do.

I would ask that tenants not be made pawns in a very academic exercise in order to test a very unfounded theory. Real people are going to suffer because of these proposals if they're implemented.

The third myth: The proposed system will increase tenants' choices. Again, not true. There are dwindling options for affordable rental housing right now. There is no new social housing that's going to be built. Some government housing may be sold. There's less support for services to low-income tenants and, as I've argued, we do not believe there's going to be any new construction.

On top of that, the Rental Housing Protection Act it's proposed should be eliminated. The fear is among tenants, and our belief, that there will be demolition and conversion to other means of earning an income and the idea that there is a choice for tenants who want to buy their units is not realistic. Few can afford to purchase and what will result is that stock will disappear. The existing units will become unaffordable and for our client group what this results in of course is homelessness at great social cost to our community and our province as a whole.

The vacancy rate in Hamilton, according to the CMHC estimates, is approximately 1.8%. The Hamilton city council resolution speaks to that and also made reference to the fall 1995 regional report on housing which states that one third of social assistance recipients spend over 70% of their income on shelter, that that would become worse with the reduction in benefits in October 1995, and they feel that you need a 3% vacancy rate as a minimum in order for tenants not to become captive in their units.

The fourth myth is that this proposal will improve maintenance. The city of Hamilton resolution on the second page is a call to the province to have more detailed consultation with municipalities throughout the province before going ahead with any changes to property standards and maintenance. Quite clearly, it's because the proposal is calling upon municipalities to take the burden and to enforce maintenance provisions. At the same time, of course, municipalities have received less in transfer payments and unless there is adequate resourcing, any of the new powers that are suggested in the proposals are going to be meaningless.

I would also question whether it's working now because of the time and the cost that's involved for the municipality and unfortunately there's very little deterrent in that many convictions lead to suspended sentences or minimal fines. We are also finding that justices of the peace are not taking charges seriously, so they're not getting into the process in the first place. Again, as other presenters have indicated, we would endorse a minimum fine as one mechanism to deal with this problem.

We'd also urge you to preserve rent freezes, which results from the orders prohibiting rent increases. Again, the recommendation is to abolish this very valuable deterrent which, in our experience, works. Why get rid of it? Why fix it if it ain't broke?

We would also suggest that notices or orders or any other documentation produced by the administrative offices that enforce the standards be given to tenants, as currently it's very difficult for tenants to know exactly what has been ordered, what the deadline is, what the risk is to them and ultimately if they're going to proceed to court in order to enforce their rights, they need that information. Yes, it can be obtained with a summons, but it's time-consuming and expensive and it certainly doesn't lead to any resolution before getting to the ultimate stage in court.

Finally, there needs to be some forms under the Landlord and Tenant Act specifically for such things as repair issues so that tenants can be proactive and look after these problems themselves.

The fifth myth is that getting disputes out of the courts will expedite the resolution of many of these disputes. I'm sure you're glad I'm finished with that.

#### 1450

The current administrative scheme is slow. The ministry document admits that. The question is, why is the presumption that the new system could be any better and why are courts being criticized? The clinics here in Hamilton operate a duty counsel at the landlord and tenant court every Wednesday. We have the benefit of participating and observing how quickly or how slowly that process works. For example, this past Wednesday there were well over 100 cases on the list. All of them were dealt with. I think at one point there were three judges dealing with it, but by about noon things were pretty much wrapped up, except for a couple of cases.

Notice is as little as four days to get into the court system. It's not a slow-moving process. Adjournments, when they're contested, are short. Our experience in this city is that they're about a week, maybe two, and also the judges are very strict. They're black and white when it comes — if there are arrears owed and the money is not available to be paid, the tenant is evicted. I'm not necessarily agreeing with that, but that's the reality. In approximately a month, the landlord, if following the rules and proceeding through court at the earliest possible date, can evict a tenant. I don't believe that's an extraordinary amount of time. Without exception, the judges do want an expedited process.

The one element that judges can add to the equation is something called "equitable jurisdiction." They can exercise this discretion in order to attempt to balance the rights, obligations, needs of the parties, deal with the very



specific issues that are presented before them. It adds an element of fairness that we don't often see in an administrative tribunal, as they are bound by fairly narrow and arbitrary interpretations of the provisions.

We are concerned that appeal rights might be affected and certainly we agree that additional consultation is required on this point. With respect to mediation, again there are pros and cons. We would ask that if it is implemented it be voluntary, that there be a sufficient training for the mediators in order to address power imbalances between the parties and that there be some attempt to allow for jurisprudence. Previous presenters have touched on this point, but again, the loss of some of the decisions would be unfortunate for parties on both sides if there is a privately determined settlement.

We have some concerns with the appointment process, but we would endorse the submissions of the Legal Clinics' Housing Issues Committee. I believe they presented on the first day or very early on in the process. We also have some concerns with increasing the default powers of the registrars within the court system. We would also caution against fees required to participate in the process as they may act as an economic discrimination or in fact economic eviction for those low-income tenants who don't have the means to file a dispute if there's money required in order to do so.

In conclusion, the myths that we've touched on this afternoon are effectively the goals of the proposal. They're laudable goals and tenants endorse them. However, tenants have been betrayed by the discussion which follows the enunciation of these goals. The language is inconsistent with that of protection, and we ask the committee to recommend to the ministry that this package not be adopted, that you consider and continue to consider this consultation process as necessary for any reforms that are going to take place and study the impacts of some of these notions that are being presented as solid.

The interests of low-income tenants in particular: Again, the constituency we speak for is too important. They are just too many people who are going to suffer if these proposals are implemented and for that reason we ask that it not proceed in its current stage and that there be full consultation. Thank you.

**The Chair:** You've effectively used up your 20 minutes so we thank you very much for your input this afternoon.

#### EFFORT TRUST CO

**The Chair:** Our next presenter is the Effort Trust Co, Arthur Weisz, Samuel Taylor and Ben Sander. Good afternoon, gentlemen. Welcome to the committee. You have 20 minutes.

**Mr Arthur Weisz:** Mr Chairman, for a change I would like to see that the panel ask me questions, because there are two sides to every story. One time two gentlemen had a very serious dispute between themselves and they went to a minister and asked the minister to help them out with their problem. John told his side of the story and when he finished his presentation, the minister said, "You are right." Then Mark came to the floor and he told his story. At the end of the story the

minister said, "You are right." The third person in the room, who takes all this information, said, "How could both be right?" And he said, "You are right too." We heard this story over and over.

My personal feeling is the Hamilton scene is really different from Toronto, and you will be kind enough to read my submission, what I have, point by point, and there is a rental guide too. When you go to the end of this thing, right at the end, you will find here in Hamilton we try to rent a one-bedroom apartment for \$495 with a month's free rent, and the building is a fine downtown building, and they have 30 vacancies from 200 units. The statistics that we have from Canada Mortgage and Housing, first of all are a year old, and the last six months in Hamilton went through a major change in rental. I am in the market for over 40 years. We build the building, we are managing a big portfolio and we have a serious problem.

I would like to see that this group of people read what I say, and I don't want to read it and go through. I am more than happy to answer any question that may be a valid question, but certainly there is always two sides to every story. I am not against or for rent control. I'd just like to see the system eliminated because there's no need for it. We are managing a large portfolio the last five years. We even have GST added to our cost, payroll tax added to our cost, insurance premiums, and for the last five years, we never went once to rent control. We were trying to get some information from the local office. They'll ask, "Who else is going?" They couldn't give us any information because they were almost ashamed to tell us what happened. This is a major expense to maintain rent control. To my knowledge, it's millions of dollars. They are not doing anything. Very capable people are sitting there and they are idle. They may phone tenants and ask them, that according to the rent registry in 1985 what was your rent, and they calculate the increases, and that's their function today because there are no hearings and no nothing.

We have also a provincial regulation, this so-called retrofit. What is estimated between \$500 and \$1,000 a unit, there is no fund for it. Let me give you a statistic just very quickly.

**The Chair:** Excuse me, sir, if you are doing that by yourself, for the record —

**Mr Weisz:** I'm sorry. My name is Arthur Weisz, representing Effort Trust. Ben Sander is one of our associates. Sam Taylor is an accountant.

But let me give you a little bit of information. I am not here to eliminate rent control. What I'm saying is: don't waste any more money. I think this whole thing is a waste of money. The province could use the funds for helping people who need help. The health situation: when somebody's income is less than \$17,000 a year, he's getting free drugs. Anybody's income is higher, we pay first \$100 and then he pays \$6.11 every time he needs some help. I would say that the government could save a lot of money abolishing rent control altogether — that's a great number of dollars — and help the people who need their help.

Our experience is that well-located, very nice buildings paying less rent than the buildings that are not so well



located and have difficulties. This person who is living in that building is not only getting low rent compared to his income, but that income that he receives indirectly reducing rent is a tax-free income. The landlord has two choices: either fix up the building and spend money, or pay taxes. Some tenants who don't pay enough rent are saving not only rent, but are saving taxes too.

**1500**

Just to give you a little bit of information, 110 buildings in Hamilton and the surrounding area are what we are looking after, and 43 of them are not increasing rent, or reducing rent, but are below the guideline. There is a building for sale in Hamilton right now, and the building has 90-some units. The selling feature of the building at the end is that the allowed rent according to rent control monthly is \$59,038.69 a month, and they are now collecting \$56,515. They are saying this is a good buy because the rent is much lower than the allowed rent control rent.

I would like to stop talking and I would like to see some of you ask me some questions. I would be happy to answer. But what I am saying is, the government would be far better off to use these resources for a much better way and not to count this problem up and up all the time.

We have a crisis in Hamilton, not only a residential crisis, we have a commercial crisis. The Hamilton population — I attached a sheet — is declining. The lower city in the last 40 years has 15,000 fewer people, and how many units have been built? It means we don't have to worry that anybody has a chance to gouge rent. Hamilton is not Toronto. Rent control could always be introduced when somebody's doing something wrong.

I'm really afraid — it happened to us many times. We're getting letters from tenants, "Why do I pay \$50 more rent for the same unit than my neighbour is paying?" With this new program that the government has in mind, this gap will be even bigger. There's no guarantee that the man who is paying a higher rent has more income to pay.

The rent should be allowed to go according to the market. Maybe Toronto has a situation where it's not so. But why should we hurt Hamilton and St Catharines and London? When rent control was introduced in 1975, Hamilton rent was \$100 lower than Toronto rent. We had an 8% vacancy at the time. Canada Mortgage and Housing statistics are a year old. I spoke to them last week and asked them, "How do you get your information?" The gentleman said to me: "We go to the building. When we can't find the superintendent, then we look at the intercom and when they have two or three no names, that's three units vacant."

There's a little building on Main Street in Hamilton, very nicely kept, no parking, because that building is an older building, 56 units, 17 vacancies. And that should be a statistic? You can't.

The mountain in Hamilton, the upper level, maybe has a little bit of a tighter market, but down in the city you can do whatever you want. You're getting a big reduction in rent. So you can't look at the system. When Toronto needs at a certain part rent control, let's do it. When Hamilton will need some rent control at some part, let's do it. But the idea of spending all kinds of money just to

maintain a system that is broken, is not working, and spending money to maintain it doesn't make sense.

I could answer a few questions. I will be happy to do so.

**Mr Stewart:** Thank you, sir, for your presentation. I was going to ask you a question, because we've been hearing it a lot of times over the last week or two: Are you a bad landlord?

**Mr Weisz:** I think we are a good one.

**Mr Stewart:** I thought so too. I'm not trying to be facetious.

**Mr Weisz:** We're very proud of our buildings. Our buildings are well maintained, within reason. I think we are respected in this community as reasonable.

**Mr Stewart:** I wasn't trying to be facetious, sir, by any means. But what my concern is, we've heard all around the province in the places we've been that most people aren't at maximum rent. The allowable increase has not happened over the last couple or three years. Then on the other side, folks are saying, "If it's taken off, it may go up," or there's the possibility it might go up, or if it goes up.

My concern is that you are right: There are two sides to this thing. I think that somewhere along the line, we have to find a level playing field. I've heard the old statement, "If it's not broke, don't fix it." There's not anything in the world that you mustn't do a little bit of preventive maintenance to it.

So what I'm saying is, we can't stay status quo. But in your particular case, what is going to stimulate building? Is there building required because there is enough vacancies of affordable housing? Because affordable housing is what we're all talking about here.

**Mr Weisz:** May I say this? You can't expect a group of people — some people own a building for 30 years. Our inventory is old. We never had the chance. Our rent is lower in Hamilton than the average rent across the city. Why? Because we never sold anything. If we built something, we kept it. We've never sold a building in the last 35 years. It means we are in a little bit better position than somebody who bought the building in 1989 or 1990.

According to the statistics, even in Toronto a building that was worth \$60,000 in 1989-90 because of the free market today is worth only \$40,000, a \$20,000 decline. You see, when we are not maintaining some value of the building, nobody can build.

But again, let me say one more thing, what is really the most serious thing: The same government that is maintaining rent controls since 1975 is charging to tenants indirectly in their rent two and half times more taxes than an average home owner. How is that possible? A townhouse that is worth \$40,000 but is rented is paying taxes on a \$100,000 market value. What kind of injustice is that? You reduce the taxes; we'll reduce the rent.

**Mr Sergio:** Mr Weisz, I believe the first presenter this morning said that rent control had nothing to do with keeping the rents down; it's the free market.

**Mr Weisz:** May I say this? Rent control helped us. You know why? Because nobody built anything. Since 1975, not one building has been built in Hamilton for rental — not one. Really and truly, in one way rent



control I wouldn't say really hurt the tenants, because Hamilton rent is low. But not one building was built.

Now, we had the previous NDP government which was very sympathetic to the need of housing, and I don't blame them. They built maybe a bigger share of non-profit housing in Hamilton than other places.

**Mr Sergio:** So you say rent control is helping keeping rents down?

**Mr Weisz:** No.

**Mr Sergio:** It's not?

**Mr Weisz:** At the present time it doesn't, and even at the beginning I would say the Hamilton market — actually, indirectly the rent control —

**Mr Sergio:** One more quick question.

**Mr Weisz:** May I say this? Indirectly rent control maybe increased the rent a little bit. You know why? Because the increase was automatically accepted. It was like 8%? They raised the rent 8%. Some vacancy was created —

**Mr Sergio:** Mr Weisz, please? Minto, which I'm sure you know fairly well —

**Mr Weisz:** Fairly well.

**Mr Sergio:** — Mr Goldlist, which I'm sure you know fairly well, they all said that rent control is not the problem.

**Mr Weisz:** Correct.

**Mr Sergio:** It's a number of other associated problems.

**Mr Weisz:** Yes, but rent control is a problem, because it's creating a huge administration and a cost for no reason at all.

**Mr Sergio:** If the system is not broken, just needs a little oil job, why don't we leave the total engine alone, just replacing the sparkplugs and just giving it a little grease job then?

**Mr Weisz:** I'll tell you something: Eventually we hope that the private sector could build something. There has to be some incentive.

**Mr Sergio:** What would you need from the government for you to go and build next month?

**Mr Weisz:** What I need from the government, first of all, on the rent control, no particular help. When the rent control is lifted, I say it again, a rent subsidy should replace rent control. When they are able to do it in the medical field, we should be able to do it in the housing field. Let's say that anybody whose rent is more than 20% of his income should be subsidized. But you will save a lot of money, you will save a great deal of money —

**Interjection:** On administration.

**Mr Weisz:** Administration, which costs a fortune, and many others. I'll tell you something: There is —

**Mr Sergio:** So are you saying rent —

**The Chair:** Thank you, Mr Sergio. Mr Marchese.

**Mr Marchese:** Mr Weisz, I just want to make a few statements and then ask a question or two, if I can, quickly. I think you've heard everybody saying there are good landlords and bad landlords.

**Mr Weisz:** Don't give the opportunity to a bad one to become worse, because, again, this new law is creating a new problem, because really some owners may force out the tenants when they have a reason for it.

**Mr Marchese:** Mr Weisz, I didn't even get to make a statement. I wanted to make a comment too, if I could.

There are good landlords and bad ones, and everybody agrees. There are good tenants and bad tenants, and everybody agrees with that as well. It just makes me feel a bit uncomfortable when some people create the impression that we are all against landlords in general.

**Mr Weisz:** I didn't say that.

**Mr Marchese:** I know you didn't say that. I didn't say that you did. What we wanted to do, as the New Democratic Party, was to make sure that there are basic protections for people who are vulnerable. Tenants are vulnerable to the landlord. It's not an even relationship. All the tenants speak about that, and many of the landlords that have come here speak differently. They almost make it appear like it's an even relationship: "We love tenants. They're my most preferred possession," or something to that effect. "We treat them well, we depend on them." They create the impression that the relationship is even. It's not.

We put into place, therefore, a legislation of rent control that protects tenants. Now, we know that most of you don't agree with that. Most of the tenants, however, do agree with us. They're very worried about your opinion and theirs that we remove rent controls. We're absolutely worried about that as well, because the basic protections of many vulnerable tenants will not be there.

So when you say, "Just get rid of rent controls and help those who need help," that to us isn't assistance. It doesn't build affordable housing and it doesn't accommodate those who really need to be accommodated, and there are no basic protections for the people that will make sure that they will get the money that is needed to be able to rent.

Do you really believe that your sector is going to build affordable housing? If you get rid of rent control, do you really believe —

**Mr Weisz:** May I say this to you? In the event the protection for the low-income people comes from the government not from the private sector, the government makes up the difference of the rent, and the people abusing the system, because they are big-income people and living in the finest units, paying 50% of the rent that should be paid — when you buy a house, to be approved by Canada Mortgage and Housing to be able to get financing, they're using 32% to 33%. I have tenants who are paying 2% of their income on rent. Why should we protect these people? The landlord will pay taxes when he makes additional income or he maintains his building better or he builds. There is some incentive to build because you have depreciation, but when the system is protecting 75% of the tenants or 50% who don't need protection, why should we do that?

**The Chair:** Thank you very much, gentlemen. We do appreciate you coming forward this afternoon and giving us your input into our deliberations. Thank you.

**Mr Weisz:** Thank you very much.

**The Chair:** We're now going to take a five-minute recess out of necessity.

*The committee recessed from 1514 to 1520.*

#### DUNDURN COMMUNITY LEGAL SERVICES

**The Chair:** Welcome back to our hearings. We appreciate your indulgence. Is Mr Condon here yet? Greg



Kaufman? I understand Judy MacNeil is here. Ms MacNeil represents Dundurn Community Legal Services. Welcome to our committee. The floor is yours.

**Ms Judy MacNeil:** Thank you for the opportunity to give these submissions. As Mr Tye said, I understand you've had a long week, and this is the end of a nice day outside, so I'll try to be brief.

Dundurn Community Legal Services is one of the three legal clinics in Hamilton. We've been around since 1981. During our history, we've represented many tenants. We're located in the downtown core, where the abundance of rental housing available is of an older stock. We find ourselves often in court representing tenants, as well as in tribunals and in Small Claims Court and Divisional Court.

We're concerned, with the other clinics, for the tenants we represent. The tenants we represent are mostly from what would be classed the hard-to-house tenants. Very often the people we represent are people who do not speak English as their main language, who are not often literate or eloquent enough to represent themselves or speak up for themselves.

In that regard, one of the things we're most concerned with, although all of the package gives us concern, is the possibility of entering a new tenancy and negotiating a new tenancy agreement with a landlord. It is anticipated, I understand, that landlords and tenants could negotiate not only the rent to a maximum of whatever the market demands but would be able to negotiate additional things like capital expenditures for a particular unit and so on.

Our tenants are not people who are replete with bargaining tools, who are good negotiators. They sometimes are not even aware of their rights, let alone able to exert their rights. While we assist tenants, there are many tenants like that who we do not even meet. If you do away with rent controls, there is some concern for tenants who are in the lower-income region. Perhaps there could be a sliding scale put in place so there would be protection for lower-income tenants.

We're concerned as well about the possibility of eliminating costs no longer borne in applications for increases above the guideline. If this were eliminated, I think there would be a tremendous imbalance set up. It's proposed that landlords would be able to claim for uncapped extraordinary expenses such as taxes and utilities, but there would be no corresponding reduction in rent in such changes as conversion of heating systems that entail a reduction in cost to the landlord.

It's presumed this would apply as well in situations where the tenant can volunteer to pay for capital expenditures to his unit. Certainly if there is a negotiation with regard to these types of expenditures, part of the negotiation should include that once the cost has been paid for through amortized payments under rent increases, there would be a decrease in rents.

One of the other concerns we have is the possible deletion of the Rental Housing Protection Act. The paper indicates that the philosophy behind this is that this has been a deterrent for building new rental housing stock.

I don't think the experience in Hamilton validates that assumption. I know from the submission made by the planning and development staff of the city of Hamilton

that there have been over 30 applications since 1986, when the legislation came into place. Most of those applications, I understand, have been successful, and in most cases tenants have supported the conversions. Most of those applications, by the way, have been conversions to condominiums. Because the city has had control, as it were, of the applications, they've been able to negotiate conditions for approval on these applications, conditions whereby the tenant is secured tenure, in some cases of two years or more — the minimum is two years. In some instances there have been payments, buyouts. In some instances tenants have actually stayed on as tenants along with the condo purchasers.

We feel that, as in the paper that's been submitted by the city of Hamilton, having the municipality have control of this allows the municipality to control its overall planning scheme as well as its microplanning scheme, if you will, since the city looks at vacancy rates, the supply of affordable housing, not only on a city scope but also on the area within which the application deals. We feel tenants have been well protected by the present scheme. We don't feel that it's not working. We have no evidence that it has discouraged investment into building new stock or upgrading present stock.

Finally, with regard to maintenance and repairs, I know a lot has been said with regard to the increased role of the municipality. I know we work hand in hand with the property standards/building departments to effect repairs being done. They are often very generous in providing us with copies of letters or notices or work orders that have been sent out. Our only concern is that presently there is a problem that when a tenant leaves the unit or the house, that's the end of the story, that because the department is overburdened right now, they call an end to their implementation of the repairs being done. It may be that their increased enforcement roles will be effective. We feel there are some problems with the present system, but not necessarily that an overall change is necessary.

One of the things we found very effective is the orders prohibiting rent increases. I know the philosophy behind removing that from proposed legislation is that it's an expensive procedure and adds an administrative burden on both the municipality and the present rent control programs, or whatever administrative body would be doing it, but actually it's a rather simple procedure. As you are aware, the property standards or building inspectors send out a number of notices to whoever is on title and this is just one more notice. In this age of computers where programs are available, I don't think the fact that an order would be issued as a consequence of a work order in place is an additional burden.

#### 1530

One suggestion that is made in the discussion paper is the removal of notifying everybody on title. I don't think that necessarily will streamline the process, since title searches will be necessary in any event.

With regard to the dispute resolution system that's proposed, we support mediation as a viable means of resolving matters between landlords and tenants, but I don't think it's an answer to all problems. We have been trying to set up an independent mediation system here in Hamilton where tenants and landlords would have the



option of settling their problems in this way. We don't want to see that this is a mandated adjudication; we'd like to see it as an alternative to adjudication. We'd like to see voluntary mediation and some clear indication to the parties that adjudication is available and that any unsuccessful mediations will not be used prejudicially against them.

Finally, we're concerned that the discussion paper is just a glimpse into proposed changes. We certainly would like the opportunity to see the legislation once it has been drafted. We'd like the opportunity to consult with further committees or this committee. We hope that public hearings will be scheduled that will allow concerned stakeholders to have some kind of input into the new legislation so that it is equitable to all parties. Thank you.

**Mr Sergio:** Ms MacNeil, thank you for coming down on a Friday afternoon and making a presentation to us. What got my interest at the beginning of your presentation was that I noticed a subtle approval of the city allowing conversion of rental units to condominiums. If I'm wrong, please tell me that. Is it because the city — we call it the city but I think the owner of the rental building is more than happy to agree to a lesser rent for a particular period of time as long as he gets what he wants. If I'm wrong, please tell me. If not, do you think this is a good way to go about — if I say "depleting" then I'm telling you how I feel. I want you to tell me if it's a good way.

**Ms MacNeil:** No, I don't think it's a good way to deplete the stock. What I'm saying is that the system we have in place now has taken into consideration the stock that we have here in Hamilton, and the city has been very careful in allowing applications, although there have been minimal applications in the past 10 years since the legislation. In fact, in some instances buildings have been involved in which there were not many sitting tenants. There were very few tenants.

**Mr Sergio:** Do you think municipalities should be given carte blanche with respect to conversions?

**Ms MacNeil:** I think the system we have, the rental housing protection, should remain in place.

**Mr Christopherson:** I just have a comment, and then my colleague perhaps has a question. Judith, thanks very much for your presentation. I just want to mention for the record and for the benefit of the government members that your comments regarding the Rental Housing Protection Act are exactly the way it happened. I was a member of city council when that law came into effect and served there for four years while that was in effect, and I can say it did not cause any undue hardship anywhere. We were not under pressure from landlords, developers, speculators or anybody. Everyone saw it as a fair piece of legislation that allowed the city to deal with the question of affordable housing stock in a fair way that took into account the importance — sometimes we did allow it. We would allow demolitions, for instance, in certain locations if it made sense for the neighbourhood, but it also allowed us oftentimes to save important housing stock.

I emphasize that my experience here in Hamilton is that this is a good piece of legislation. I don't know what's driving the government to want to remove it, but

I think they're making a big mistake. I don't think there's any particular itch that you're going to be scratching by withdrawing this protection.

**Mr Marchese:** Thank you as well for raising other issues that many have raised around costs no longer borne, the rent registry, the order prohibiting a rent increase as an effective tool in effecting maintenance and so on; all that is something of concern to many.

Many landlords believe that the present system is tilted towards the tenant, that there's no balance, and that this proposal effectively brings back some balance to the poor landlord who has been hard done by, as it were. Do you think there's such a problem?

**Ms MacNeil:** Is this the rent control system or the whole housing package?

**Mr Marchese:** The whole thing.

**Ms MacNeil:** Certainly any system demands some improvements. I don't see this as being particularly unfair to landlords. I deal with a lot of landlords and I haven't heard the cry from them. I voice Mr Tye's submission with regard to the equitable discretion of the judges right now. The courts have traditionally protected contracts and protected property owners. I think they bring that background with them when they adjudicate on landlord and tenant matters particularly and balance with the discretion they have.

**Mr Smith:** Thank you for your presentation. I'm not sure if you were here for the previous presentation, but you raise the issue of negotiation in your paper. It's an issue that is obviously identified in the position paper that the government has circulated. The previous presenter appended to his presentation a letter from a tenant who had identified rent decreases for units similar to the one he was living in, and then followed with correspondence that indicates that the landlord was prepared to recognize the lower rent and negotiated a new rental agreement that was less than what that individual was proposing to pay.

Perhaps this is an unfair question to you, but from your professional experience, is this type of informal negotiation taking place on a regular basis now? And is there a distinction that needs to be made between negotiation for monetary value of the rent versus terms of the agreement? I take it from your paper that you're concerned with the terms of the agreement, not necessarily with the monetary value.

**Ms MacNeil:** I mentioned in my paper, which I didn't mention in my oral presentation, that we're concerned that negotiations would be a whole contracting out of the legislation, which is what they have in British Columbia right now. I'm concerned that if negotiations are allowed, they be limited to the rent.

I didn't hear the previous presenter. I can't say that I have seen a lot of it. I saw some of it a couple of months ago, when we might have had a little higher vacancy rate. Our vacancy rate now in Hamilton is coming down. As apartments get more desirable, in that sense, then negotiations will change.

There have been some negotiations, and I think right now there's a protection on both parts. Presently the Rent Control Act has a stipulation that if the landlord is asking less than the maximum legal rent, he inform the tenant in writing that he is asking less: "This is the legal rent, and



I can raise the rent to this amount." If he does not do that, he has to wait until two years have passed. So yes, there are protections presently for both parties.

**The Chair:** Thank you very much, Ms MacNeil. We appreciate your coming this afternoon and giving us your input.

1540

#### HAMILTON-HALTON HOME BUILDERS ASSOCIATION

**The Chair:** Our next presenter is the Hamilton-Halton Home Builders Association, Gabriel Desantis, Dan Condon and Anthony Diczko. Good afternoon, gentlemen. Welcome to our committee. The floor is yours.

**Mr Gabriel Desantis:** Before I comment on the specific paper, we as an industry are encouraged and delighted that this government has brought the issue to the table for all parties to discuss.

That said, my name is Gabriel Desantis, and I'm currently president of the Hamilton-Halton Home Builders Association, which is the second-largest association in Canada that represents a large number of developers and landlords in the Hamilton CMA. To my right is Dan Condon, presently the executive officer of our association, and to my left is Anthony Diczko, representing one of the largest landlords in the area, as well as a member of our association.

Following the June 25, 1996, announcement of the new Tory tenant protection proposals, the industry's initial shock and disappointment quickly gave way to alarm as the real implications of the package sank in. At our association, numerous committee meetings were held over the past several months to analyse the substance and prepare our response submission. But before getting into any detailed response to issues, every member and every ally must reconsider the following facts: Once again government is changing rent controls. Each time a change is made it is progressively worse for the landlord and tenant community.

Just like its predecessor, this policy starts off with the wrong foundation: private property for social policy. By that we mean the private rental sector is still being used to implement social policies to address the affordability problems of some tenants. Our prices are competitive, yet we are expected to subsidize all tenants, whether they need it or not, through rent controls. The government must be reminded that it is society's responsibility and government's role to redistribute wealth through the tax system and social safety net, not price controls.

The Tories recognized all this before the election and following their victory said they were going to do the right thing. They knew that the current system was not working and that changes were needed to generate new housing, create jobs and reduce government costs. That's why they were going to restore the market function.

This proposal is a far cry from what was promised. In taking away legal maximum rents on the first turnover, the Tories are retroactively confiscating capital expenditures and resulting rent increases previously earned. The NDP's Bill 4 only destroyed the segment of the market that had recently completed capital expenditures. This

proposal hurts everybody. The tradeoff of losing legal maximum rents for decontrolled rent control is disastrous. In a soft market like today's, this one policy change would wipe out our asset values and condemn the industry to bankruptcy.

At our association we advocate a position that carefully allows for a transition from overregulation to market function, with vacancy decontrol and full negotiations between landlords and tenants. It advocates tenants' consumer protection through a complainant-driven arbitration process. This is the only way to achieve the government's goals of encouraging investment, jobs and choice in the market.

The following summary, which our executive officer, Dan Condon, will take you through, represents our major concerns which centre on (1) loss of legal maximum rents on the first turnover; (2) the inability for landlords and tenants to negotiate freely; and (3) more cumbersome maintenance provisions.

**Mr Dan Condon:** As Gabe pointed out, my name is Dan Condon, the executive officer with the Hamilton-Halton Home Builders Association. We will concentrate our comments on those three main areas, the first being rent control.

The main area of concern for landlords is the loss of legal maximum rent on first turnover, particularly in the soft markets we are currently in. Our written proposal will show how this disastrous change makes it impossible to accurately plan capital expenditures; also how this proposal makes it difficult to service tenants, as it will pit sitting tenants against new tenants.

Our alternative is the public position put forth by our organization, that the existence of a previous legal maximum rent higher than what is currently being charged should be an additional basis on which to receive an above-guideline increase, subject to the cap. This will protect tenants against large increases while allowing rents to be restored to legal levels in a reasonable time. Legal maximum rents should not be frozen. There is no reason to freeze maximum rents.

There is no need to maintain the rent registry, which is costly and inefficient. Landlords will be able to prove their maximum rent entitlement by means of previous orders and the final rent registry listing.

Above-guideline increases should also be possible on the basis of comparisons to similar rents for comparable units in the area, both within the building and externally. This will allow for addressing the problems of substantially below-market units and disparities within the building while tenants will be protected by market forces.

Capital expenditures should be able to extend beyond the two-year phase-in and maximum rents will need to be embodied in the order. Work ordered against a building should be exempt from any type of cap. This would include retrofit.

We feel there's a need for clearer rules for discounted rents; a need for minimum dollar increases as well as a percentage to avoid penalizing low-rent units and widening their gap from the market; and no cap on the ability of landlords and tenants to agree to a mutually acceptable rent increase.



With respect to rent reductions and abatement, in the case of inadequate maintenance applications, only conditional abatement should be possible, with the rent penalty removed once the problem is rectified.

Permanent rent reductions will apply only for permanent withdrawal of service or tax decrease. Rent reduction applications should require a filing fee and result in a separate hearing from any application for rent increase to reduce the incentive for frivolous applications.

With respect to the Rental Housing Protection Act, we support the proposal to eliminate the RHPA. Some older stock would be worthless without the RHPA gone, because owners cannot refinance.

**Tenure:** Give tenants extended security of tenure on condominium conversion, meaning the right to remain as tenants if they do not wish to purchase, but paying rent at market rentals; also, right of first refusal for re-rental at the new rent; and in the case of renovations, one-year notice of demolition with the right to leave at any time.

The province must ensure that landlords will have the option to convert, demolish or renovate as a right. That means not just the elimination of the RHPA, but preventing municipalities from blocking through planning requirements, refusal to issue permits etc.

With respect to maintenance, our main areas of concern are the loss of the requirement that a notice of violation be issued prior to a work order. Violating a property standard will be an offence, rather than a failure to comply with the work order. Owners of a substandard property would be ticketed on the spot. Maximum fines should be increased.

There must be a clear requirement that tenants notify landlords of maintenance requirements and allow a reasonable opportunity to rectify. Legislation must also provide landlords with the statutory right to inspect units with 24 hours' notice in order to be aware of and able to address any potential problems.

Finally, with respect to the Landlord and Tenant Act, we support the government's proposal to allow a landlord control of subletting and assigning. In order to speed up the process and remove the incentive for delay, rent arrears must be paid into court if there is a dispute. Set-asides must be on notice and only on certain grounds. Landlords and tenants can agree on separate and additional services and charges, and a tenant majority, 51%, could be required for security of common area services.

That summarizes our position on those particular ones. There is some mention of care homes and mobile parks, and our submission basically will follow the guidelines of those who have a little bit more expertise on that: the Ontario Manufactured Homes Association and the ORCA respectively. That's it. Thank you.

1550

**The Chair:** We have about three minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** You guys are a bit unhappy with this particular proposal because it doesn't go far enough. Is that fair?

**Mr Condon:** We're happy in that it's on the table and it'll be discussed. If a couple of issues are rectified, we would certainly be satisfied with it.

**Mr Marchese:** We've been hearing in Toronto and all parts of Ontario from tenants — individuals and tenant organizations — legal clinics, organizations that serve vulnerable people, seniors, people with disabilities, people of low income, abused women. They're concerned about this proposal in terms of the lack of protection it gives to tenants. Do you think they should be concerned?

**Mr Condon:** With respect to our association, we have always been on record as saying there are instances where, for whatever reasons, there are people who cannot afford to house themselves, and by all means there should be a safety net system there for them. However, to take the entire market and put it under a safety net we feel is not appropriate.

**Mr Marchese:** We've heard from many who say that 80% of the people who are on social assistance are in private rental accommodation and many of these people pay up to 70% of their income on rent, which leaves them very little to survive on. So they have a big concern about the removal of rent control that could increase rents even further and they are asking, "Where is the basic protection for people like us?" — not just them, but so many others in a low-income bracket.

**Mr Anthony Diconzo:** I suppose the answer to that would have to address whose function it is to protect those individuals and the availability of their housing. Is it the function of private enterprise to subsidize social assistance essentially, or is it the function of government outside of private enterprise, through whatever taxation mechanism etc, to protect those individuals?

**Mr Marchese:** This is where we disagree, obviously —

**Mr Diconzo:** Obviously.

**Mr Marchese:** — you, me and the other group over there. We believe governments need to be there to regulate aspects of life which are essential to them. For us, housing is a right. You're saying, "Please don't let us subsidize them," as if somehow all of you are poor as a result of housing these people and if you didn't have rent control, you would be able to survive. As a result, you're barely making it.

**Mr Diconzo:** So you're defining the right to function in society as a function of whether you're rich or poor, an owner of property or a renter of property. You have said that as a consequence of the landlord not being poor, he should be the one subsidizing these tenants.

**Mr Marchese:** No. You're making 10% profit.

**Mr Wettlaufer:** Thank you, gentlemen, for your presentation today. One of the things we have to arrive at is that, first of all, this is a discussion paper designed to obtain input and it's an attempt by our government to put some fairness back into the system. I don't think we as a government want to give full protection to landlord or tenant. We already have an adversarial situation existing in the province, and personally I'd like to see some of that eliminated.

You talk about eliminating the maximum legal rent altogether — no mention of it — that you feel it's a hardship on the landlord. I think if we don't eliminate it, we are creating a hardship on the tenant. I would say you can't have your cake and eat it too. We in politics have



to achieve the art of compromise and that is what we are attempting to do here.

In so far as rent controls are concerned, we've heard a lot of input about the amount of intervention by governments at all levels, whether it be taxes, whether it be the controls. Would you suggest that the elimination of rent controls, as provided in this discussion paper, would be a first step to building more units?

**Mr Diczno:** To building more units? So we're not focusing on the entirety of the proposal, we're focusing on a subset, which is, will it increase housing stock within Ontario?

**Mr Wettlaufer:** Will it be a first step to that?

**Mr Diczno:** I would say yes, it would be.

**Mr Condon:** It might be a first step, but I don't think you'll see a shovel go in the ground with it, if you want to get technical.

**Mr Wettlaufer:** I have another question which ties into that. Eighty per cent of the buildings we have in Ontario now are four units or less. Do you see that there could be more construction of buildings of four units or less?

**Mr Diczno:** In order to ensure construction to one extent or another, you have to ensure that the landlord and its financier are going to be provided with some comfort that they will get a return on their investment. Your earlier question was whether this would be a first step. In its existing form it would be a first step in terms of addressing that, that you have to look at that consideration, look at the landlord and its ability to make a return on its investment. Would you see more actual housing starts because of it, whether it be four units or less or more? I wouldn't think so, only because the same concerns under the existing legislation as to the inability of the landlord to guarantee a return based on his expenditure, based on capital improvements, based on market influences. All those things will not exist in a free market. It will be still controlled by this legislation.

**Mr Kennedy:** I'd like to ask you what you think of a quote the minister made. He said he thinks that the landlords right now at the present time are in an upper-hand position where, because of the total lack of supply, they don't particularly have to be concerned about the wellbeing of tenants because there are a lot more tenants than there are apartments. That's the Minister of Housing, Al Leach. I wonder if you could comment on that.

**Mr Diczno:** Has he seen the vacancy rates currently? Typically, if there's not zero per cent non-vacancy, it suggests there are more apartment units available than tenants. I think the statement itself has some concerns to it. But the landlord is not in a better position than the tenant, because the landlord is in a position to act freely based on the demand that's created by tenants.

Let me give you an example. The one thing I haven't seen in any of these papers is the term "vicious circle." Back when rent controls were introduced, they were introduced to ensure that some degree of affordable rental accommodation was afforded tenants. Great. Immediately that had the result. It also had the result that landlords can no longer be assured a return on whatever dollars they were putting into the building. They were curtailed to an extent. Because of that, they were curtailed in the

extent to which they can maintain, upgrade, improve their building, no matter what the market influences.

**Mr Kennedy:** The minister is saying that the only way tenants should look at this is as a way to equalize their position because you will build more units. This is what the minister said in the opening statement. The whole reason for these proposals is so that you will build more units, yet you've just told us previous to this — the gentleman said there won't be a shovel in the ground. You said you need to know if you'll get a return. There's not going to be long-term stability if we have this chronic changing, as I think you mentioned in one of your presentations already, of the rules over and over again. How can you invite investment, how can you get financing if these rules keep changing?

I can tell you, and there are a lot of tenants here who will reaffirm for you, that this is a conflict position being opened up. Why, instead, isn't there some way to find — for example, if taxation is a barrier to things, why can't we look at some of the common ground? But I think people want to know, do you believe you'll be able to increase rents if rent control is lifted? I think that's a key question for tenants. Will you be increasing rents?

**Mr Diczno:** At the present time, the only way —

**Mr Kennedy:** No. I understand not at the present time, because there's some flexibility in the market, but overall.

**Mr Diczno:** Let's not get too many laughs when I say this, but I'm a true believer in free market enterprise. The only way a landlord is going to be able to increase rents is if the unit justifies it. If, because of whatever number of years of rent controls, units have been falling into disrepair, apartment buildings fall into disrepair, what have you, and those units dictate a certain level of rent, he's not going to be able to increase it because suddenly he has no rent controls on him. He's going to have to do something to those units.

**Mr Kennedy:** You understand the fear —

**The Chair:** Thank you very much, gentlemen. We do appreciate your coming this afternoon and giving us your input.

Is Greg Kaufman from McMaster Student Union in the audience? Okay, is Angie Tomasik here? Are you prepared to go ahead? Okay, come forward then.

1600

#### ONTARIO RESIDENTIAL CARE ASSOCIATION

**The Chair:** Paula Jourdain and Laurie Johnston, welcome to the committee. The floor is yours.

**Ms Paula Jourdain:** Thank you for this opportunity to share our position on the proposed tenant protection legislation. My name is Paula Jourdain and I am president of the Ontario Residential Care Association. I'm joined by Laurie Johnston, our area president for the Burlington, Hamilton and Niagara regions.

Our association represents about 250 retirement residences providing personal care for more than 15,000 seniors. You should also know that membership in our association is contingent upon passing and maintaining strict quality standards. We also operate a public information service and routinely advocate on behalf of residents and families.



You have heard some association viewpoints in previous committee presentations, so I'll limit my comments to some highlights. Laurie and I welcome your questions at the end of the session.

First of all, I would like to say that we strongly support the abolition of the Residents' Rights Act, including the removal of care homes from the Rental Housing Protection Act. This legislation was totally flawed and looked at people as if they had no needs at all. Care homes serve a valuable function in the continuum of care. It's not an apartment and it's not a nursing home but it combines aspects of both. By just plugging care homes in like apartments, which deal with units, it doesn't reflect the changing needs of our residents. By taking things out and recognizing that we are providing care, we can respond to changing needs of residents and meet their needs without having to move them or encumber them with bureaucratic paperwork, which was done previously.

We are against rent control of any kind. We know that deregulation benefits care home clients who are seeking quality personal care services. Prior to the Residents' Rights Act, our clients directly benefited from an intensely competitive market that forced care home operators to add value to their various service packages. This important consumer phenomenon is optimized in an open market. Full information disclosure provides the necessary consumer protection we all want to see. With rate increases, notice periods and service delivery commitments all detailed in a resident's contract and the care home information package, consumers are protected.

There is nothing that has occurred since the introduction of the Residents' Rights Act that suggests that consumers are better served under the current rent control laws. In fact, in many cases they are not served as well. This legislation means we have to do all our dealings with the residents, many of whom are incapable. In other situations, prior to this legislation, we were able to deal with the family or with an advocate. Here, everything has to be done with the resident, often someone who's confused. It's worse for the resident in a lot of cases.

We would suggest, however, that the residents would benefit from a more simplified agreement and care package. At the present time, the seniors come in, they have to sign a 20-page admission contract plus receive a CHIP, and the bureaucratic imposition at the time of admission is just ridiculous. We've suggested to the ministry staff that the two documents could be combined into a single user-friendly disclosure package. We offer our experience to assist in drafting that document, and we are working with the ministry at this time on that.

We draw to your attention an important omission. Neither the current or the proposed legislation recognizes the full range of short-term stays. We recommend they be exempt from the legislation. Many times people want to come into a retirement home just for a weekend while their family's on vacation. They also have to sign these 20-page documents and it's just incredibly complex.

We suggest that the terms "respite and convalescent care" be added to the emergency and rehab short-term categories. This allows care homes to respond to a common family request where an elderly parent is placed

in a care home on a short-term-stay basis while the family is out of town.

We further recommend that residential care homes be formally recognized in the mandate of placement coordination services.

The Hamilton-Burlington area is just a prime area where we have huge waiting lists. I think it's like 2,000 on the nursing home waiting list at this point in time, and yet we have some retirement home vacancies. Much of this, up until the past three or four months, has been because there's been no cooperation from the long-term-care placement coordination service with the retirement home operators. Retirement homes deserve a place in the continuum and this needs to be addressed.

It's further complicated with the role of home care. That's not the mandate of this committee, but it is something that will need to be addressed by the government in the future: What is the role of home care vis-à-vis retirement homes and nursing homes?

We want to ensure resident protection to appropriate settings when care needs increase beyond our care home resources. We recommend that as a condition of admission to any care home, prospects be required to purchase a full-service agreement, including accommodation. There should be nothing in the legislation which could be interpreted to allow individuals to unbundle a basic service package.

Overall, we're very pleased with the new directions proposed by the government. Clearly a special care home section speaks to many of the concerns our members and their residents and family members have expressed these past two years. We look forward to continuing to work with the government in the best interests of our residents as well as the future residents who will require quality personal care services across Ontario.

Our handout features summary notes representing input from our members, their residents and families. We welcome your questions and any comments.

**Mr Smith:** Thank you for your presentation. We've actually heard a great deal about care home provisions and specifically some concerns around the transfer process. I'll come back to that in a moment.

Given your comments to add respite care and convalescent care to the provisions and recognizing your concerns about bureaucracy, what would you envision as the appropriate process to allow for respite care or those seeking —

**Ms Jourdain:** Perhaps we could have a shortened agreement that's just recognizing that it's a short-term stay, maybe a two-pager that outlines the services, what's included, what's not, and that this is less than two months or something and a full package could be provided after that.

**Mr Smith:** So it could reasonably be accomplished in some form of written agreement.

**Ms Jourdain:** I would hope so, yes.

**Mr Smith:** Yesterday in Peterborough we heard from the administrator of a care home who expressed concerns about her ability to enter where an individual might have fallen or had a stroke or heart attack. She suggested to this committee that she's prepared to break the law,



because she's a nurse, in terms of providing that individual medical care. Do you share that same concern?

**Ms Jourdain:** Absolutely. In our other full brief we address that. The legislation does provide that we will be having an enhanced right of entry if it's signed by the resident. We believe that when the resident comes in, you sit down with them and they should sign: "Do you want the facility to come in?"

The resident has the right to risk. If they don't want anyone coming in and if they fall out of bed and die, that's their responsibility and that's their risk. They have the right to that. If on the other hand they come to a facility because there's 24-hour staffing and they would like someone to check on them, we think they should sign that, but that should be clearly indicated and we have no problem with stipulating that it be signed in a contractual arrangement.

**Mr Smith:** The one area that there has been some concern expressed about is in the transfer process. Have you given any thought as to what that process might look like? That is, as you're aware, a question that's been specifically asked in this position paper. Have you given any thought to that at all?

**Ms Jourdain:** We believe that PCS is the appropriate spot. They have a full mechanism for assessing residents and they can determine what's appropriate now, and 90% of the transfers would be going to a long-term-care centre. There are psychiatric transfers where people have to be discharged because they are totally disruptive to other residents; they may be unsafe. In that case, we're recommending that the house physician would make an assessment, subject to an appeal at a later stage, but I think in the interests of the safety of the residents, it's more important that disruptive residents be moved right away. Like I'm saying, these psychiatric residents are a very small portion; 90% or more would be to PCS through a long-term-care placement.

1610

**Mr Hardeman:** Just going on with Mr Smith's question about the change of care required and the transfer of the patient or the individual, you suggested that the care home should be under the placement coordinator's jurisdiction. Would that also then deal with the transfers? Would the transfers be done through the coordinators?

**Ms Jourdain:** We would want to be recognized by PCS so that when they're doing referrals, when they look at someone — right now they say either you stay in your home or you go to a nursing home. They don't suggest a retirement home as an option, and in many cases a retirement home is an appropriate option, especially if someone wants institutional care and there's a long waiting list.

**Mr Hardeman:** But in the transfer, when there was a transfer required because the individual required more care, if you were put into or directed to the care home through the placement coordinator, would you then also not be directed elsewhere through a placement coordinator?

**Ms Jourdain:** Sure. If you're in the care home now and you need more care, you'd go to PCS and get

assessed. What we're saying is we need a fast-track mechanism if someone really fails quickly.

**Mr Hardeman:** I guess my question —

**The Chair:** Thank you, Mr Hardeman. Mr Agostino?

**Mr Agostino:** Just on process, when some individual is on the list and then there is a replacement that comes on, who makes that decision and who is the request made to?

**Ms Jourdain:** The list for what?

**Mr Agostino:** No, I'm sorry, the list here. If, for example, an individual is on the schedule for 4:20 and all of a sudden we're told the individual is not here but someone else is replacing them, how is that decision made?

**The Chair:** If the person on the list decides to send someone to speak in their place, that's their call.

**Mr Agostino:** Just as an observation, and it's not a reflection of this organization but maybe a coincidence, it's the second time it's happened today with an individual being replaced by organizations that strongly support the legislation. I would think that somehow that's not happening by accident.

**The Chair:** Mr Kennedy.

**Mr Kennedy:** I wonder if you could explain. You're against any rent control of the retirement facilities. Could you tell us why you think it would be an impediment to your operations? You suggest that the market was providing good choice and good prices anyway, so why would rent control get in the way of that?

**Ms Jourdain:** Most of us have charged less. Many retirement homes have vacancies, and retirement homes are geared to people who have independent funds. They are not assisted seniors' housing. It's a choice people make. They vote with their feet. If they don't like the service, they go somewhere else. It's just another bureaucratic — it's like rents in Toronto. They haven't gone up more than the rent control because there are vacancies.

**Mr Kennedy:** At the moment, but obviously everyone's very mindful that those rents are quite high. How do the costs for retirement homes here compare to those in other provinces?

**Mr Jourdain:** I beg your pardon?

**Mr Kennedy:** How do the costs for members of your industry in this province compare to other provinces?

**Ms Jourdain:** I really don't know.

**Ms Laurie Johnston:** It depends. The different provinces have different means of legislating retirement homes. For example, in British Columbia there can be no nursing component in a retirement home. Therefore their rates are a lot less because they do not have 24-hour registered staff on. It depends on what the retirement home is offering.

**Mr Kennedy:** We did have information from a legal clinic early in the hearings that there were higher prices prevailing in Ontario and that this would be one of the arguments why there should be a measure of rent control. Is that something you can comment on?

**Ms Jourdain:** Other than it's people's choice, it's the services we provide. Like we said, some provinces don't provide any care in the homes. We have registered staff on.



**Mr Kennedy:** Could you identify for us the amount of vacancy that exists in retirement homes? In other words, you mentioned that there are vacant units. What degree of vacancy is existing?

**Ms Jourdain:** I think it's about 15% vacancy province-wide, 85% occupancy.

**Mr Kennedy:** So a 15% vacancy rate prevails.

When you talk about the special provisions that you're recommending here, I think everyone appreciates that there will be some special considerations required. What kind of turnover rate is there for people in those?

**Ms Jourdain:** About 30% a year.

**Mr Kennedy:** So somewhat higher than what you'd find in other apartments.

**Ms Jourdain:** Substantially higher.

**Mr Kennedy:** We've learned that there's about a 20% rate prevailing for the general marketplace.

**Ms Jourdain:** And that's the reason, and people's needs change. Sometimes they'll come in with a spouse so they'll rent a room. You make a rate for two people. The spouse in a joint facility might go to the nursing home, so then you'll discount the room. There are all sorts of weird and wonderful things that happen as people's needs change.

**Mr Kennedy:** I just want to bring you back to my original question. In what way does rent control really then constitute a constraint if you have 15% vacancy and you have lower prices you feel are fair market prices?

**Ms Jourdain:** It's administratively a nightmare. It's just another paperwork exercise.

**Ms Johnston:** The rent registry used to be a page long. There are now 20 pages. When you're dealing with residents who don't understand the legal jargon etc, it's very cumbersome.

**Ms Jourdain:** It's not the rate increase that's the problem of rent control; it's the legislation and the fact that you've got to go to the registry, you've got to submit forms A, B, C, D. It's double staffing and it costs more people. You've got to have full-time secretarial staff to do all this paperwork and more photocopying. It's higher cost.

**Mr Marchese:** Thank you both for coming. One of my concerns, or at least an ongoing concern of mine, is what happens to frail people once they are in the care of other people. I often worry about some abuses that might go on. We know that there are some good ones and bad people in terms of the kind of care that you provide for them. I take my guidance from people who are in the field in terms of the kinds of concern I would have for them. This morning we had the Housing Help Centre for Hamilton-Wentworth who came in front of this committee and asked several questions or made several points around this. I'd like you to respond to some of them.

She says: "It seems that second-level lodging homes tenants don't actually want to deny their landlords entry into their rooms" — with respect to issues of privacy and access — "they only want the right to be asked before someone comes in their room. While second-level lodging homes landlords continue to make objections to the access requirements in the legislation, we have only heard of hypothetical problems with the regulations. No second-level lodging homes landlord has told us of an

actual experience where the legislation hindered their ability to enter a tenant's room to maintain a safe home or to provide care services."

**Ms Jourdain:** Technically, it's against the law and you get the one out of a million who decides to take you to court because you went in their room, and you can go to court. Why have a law that's silly? If someone does not want you to enter their room, we are quite prepared to have that in a contract. Have it in the entry contract. Tick the box: "Do you want us to enter? Do you not want us to enter? Under what circumstances?" Fine. But don't make it against the law. That's why they're there, to provide care.

**Mr Marchese:** It seemed from what she said the tenants were glad to have their right to privacy enshrined and to have a mechanism for complaint.

**Ms Jourdain:** Then tick off that they don't want it, but just have it as an option. And with regard to your comment that there are good and there are bad operators, there's no question about that. Our association has a very strict set of standards. We inspect homes and we've advocated to the government that our standards be recognized, because we do need standards. I mean, everyone wants to go in: "Oh, a lot of people are getting old. Let's go build a retirement home." So, yes, there should be standards. We don't want problems.

**Mr Marchese:** Let me ask you on the issue of transfers — they say: "We are concerned that decisions about transfers will be made by landlords and not by tenants. It is essential that a tenant's changed need for care services be determined by the tenant and/or his or her doctor and family members where appropriate. This is not an assessment that landlords should be making, especially in isolation."

**Ms Jourdain:** That's correct. There are some situations — and we agree it should be a doctor's recommendation. But there are times when an individual and even a family might be stubborn and not want to move. You want to provide more care and they will not accept more care. So then it should be a physician's decision and we recognize there should be a right of appeal.

**Mr Marchese:** They also add: "As it appears from the New Directions paper that these transfers will be based on a changed need for care services we would urge that transfers between care facilities should not be dealt with in the Landlord and Tenant Act, but rather through regulation of care services."

**Ms Jourdain:** We have recommended to the government that standards be recognized across the province and we agree. I mean, we are not landlords and tenants; we are caregivers and residents.

**Mr Marchese:** I understand. They understand too.

**Ms Jourdain:** That's fine. The NDP are the ones who did this. I don't know why.

**Mr Marchese:** On the fast-track evictions, they say, "It is essential that tenants be given notice of the problems with the tenancy, the required remedy and the landlord's intention to evict if the problems aren't resolved." Is that something you would agree with?

**Ms Jourdain:** Sorry, could you read that again.

**Mr Marchese:** When a tenancy is not working out, it is in the best interests of tenants and landlords if the



tenants be terminated quickly. So I think they agree. Then they say, "However, it's essential" — if you're going to do that — "that tenants be given notice of the problems with the tenancy, the required remedy and the landlord's intention to evict if the problems aren't resolved," as first steps.

**The Chair:** Thank you very much, ladies. We do appreciate your attendance here this afternoon and your input.

1620

#### SMAR HOLDINGS LTD

**The Chair:** Our next presenters are Kim Carter and Arun Pathak. Good afternoon. Welcome to our committee. The floor is yours.

**Miss Kim Carter:** Good afternoon. I'm Kim Carter. I'd like to introduce Arun Pathak, from Smar Holdings Ltd.

**Mr Arun Pathak:** Good afternoon. My name is Arun Pathak, and I'm a minority shareholder and the property manager for Smar Holdings Ltd.

Before I tell you how to protect tenants and keep rents down, I have to tell you that the proposals in the discussion paper do have some good points, but they're not going to achieve the results required unless there are some meaningful modifications. These proposals do not stick to the concept of the market setting rents, which is necessary for new construction.

I'm not going to ask you to protect me from Sears or K mart or Wal-Mart and other retailers. Most of them treat me like a customer, and the customer is always right. I get good service and low prices. The reason for that is they want my business, and if I'm not satisfied, I'll take my business elsewhere. Consumer protection is not necessary, because the market provides it.

When the same happens in rental housing, I will instruct my superintendents that the tenant is always right, and his needs and wishes are of the utmost importance. That will give better protection for tenants than any legislation. You cannot legislate excellence or quality. In the late 1980s vacancy rates were very low. Many apartments were rented on an as-is basis. In the 1990s vacancy rates are much higher, and therefore many of the same apartments are painted and many landlords do what they can to dress up the units and the common areas. No legislation is going to make a landlord work as hard in improving his building as vacancies in a free market in housing will.

In recent visits to the USA, I've looked at apartments for rent in areas where there are no rent controls. They're in excellent shape compared to Ontario, and when you walk in the rental office, you're treated like a special customer.

Regarding rent levels, I'm not collecting legal rents on most of the units I manage, and the discounts range up to \$125 per month. Is rent control protecting those tenants? No, the market is protecting those tenant. It has been estimated that the majority of tenants are currently paying market rents and being protected by the market rather than rent controls.

What the proposed process of vacancy decontrol and recontrol will do is, first, perpetuate rent control. We must find a way for the new legislation to be a process of phasing out rent control. Another possible bad effect of the decontrol-recontrol system is that the landlords will not know when the unit may turn over again. They'll want to get the maximum benefit from the turnover. For example, a landlord may be happy to get \$600 a month for a unit today, but if he's going to be stuck with a guideline until the unit is vacant again, he may feel that he has to hold out for a rent of \$625 or \$650 to compensate for subsequent low increases. I don't see that as an advantage for landlords or tenants. Also, the decontrol-recontrol system may create a situation where landlords give a rent-free period at the end of a year's lease. If a lot of buildings are giving rent-free periods, then tenants will have to move every year to get the benefits from that. It would be much better for everybody, including the tenants, if on turnover, rents are decontrolled and remain that way.

I want to make it clear that any new legislation that keeps the concept of long-term rent control is doomed to failure. In the 1980s we had a lot of office buildings built in Ontario, especially Toronto. Even when office vacancies were climbing towards 10% and apartment vacancies were only 0.5%, people were building offices. This tells me that the money was available for investment in real estate. Land, bricks, mortar, workers were all available for construction. Condominiums were going up everywhere. Rental buildings had rent control and Landlord and Tenant Act problems, which I'll get to later, and nobody would look at building apartment buildings.

Some people think that landlords are making a reasonable profit. This year I've heard that RRSPs were at record levels. Just recently, the newspapers reported record investments in mutual funds. Why doesn't some of that money get invested in apartment buildings? Because many landlords are not making a reasonable profit. If any of you think that profits are good, then I can sell you a nice building.

I want to take a moment and consider who exactly is helped by rent control. As an example, let me tell you what happened a few years ago when I managed a building with rents substantially below market. The building was full and I had received no notices. I received a phone call from one of the tenants that his brother-in-law wanted to rent apartment number such-and-such. He told me the brother-in-law and his wife were working, they had good incomes, no children, good references and would make good tenants. I tried to explain that the apartment was not available, but the caller was aware that it was going to be available before I was. I had no reason to turn down the brother-in-law, and the apartment changed hands. This incoming tenant was not poor, and the poor people looking for apartments never had a chance to apply for this cheap apartment. This situation is repeated hundreds of times across Ontario every month. To get a cheap apartment, you have to have a good income and contacts and references. Poor tenants are not helped by rent control. The most affluent tenants get the cheapest apartments.



All recent governments in Ontario have changed the system of rent control, but it has not helped, because the concept of rent control leads to a lack of investment, no competition and deteriorating housing. It's like pushing on a rope. You can't achieve anything pushing on a rope and you can't help poor people with rent control. Rent controls hurt poor tenants and help well-off tenants. Once this is understood, the solution is obvious: end rent controls.

The proposals suggest making a violation of property standards an offence. Extend this to all real estate, and it may be one way of eliminating the deficit, because almost every property in Ontario, including owner-occupied homes, have some flaws. Many tenants do not want the landlord in their apartment, especially if they have caused damage, are dirty, untidy or doing something they should not be doing. Do you want to fine the landlord for that?

There is currently no requirement for a tenant to notify a landlord about a problem before he or she contacts the building department, health department or property standards officers. I had one example where an ex-superintendent contacted the health department about insufficient heat. I had to go and shut his window. Is that the sort of thing the health department's time and our tax dollars should be wasted on? This system is wrong. Ninety per cent of the time tenants contact these departments, it's a case of either they're behind with the rent or they've been asked to follow the rules of the building regarding noise or something. A few tenants can be very vindictive and may try to get the landlord fined because they've been reprimanded for noise or something else. Tenants should be required to file a copy of the work request they gave to the superintendent before an inspector does an inspection. Also, landlords should be invited to all inspections.

The correct way to handle repair problems is for the tenant to notify the landlord, then for an inspector to inspect the problem with the landlord and then a notice of violation should be issued, followed by a work order, and the landlord should be taken to court and fined if necessary. The proposals for a fine of up to \$50,000 for a minor violation of a property standard which was caused by a tenant and of which the landlord is unaware is in my opinion sheer stupidity, and I hope you'll agree with me. How am I supposed to know that last night my tenant got drunk and kicked a hole in a wall or a door? Of course, in a market situation, landlords will do repairs to retain tenants and prevent vacancies and the requirements of enforcement of standards will be largely unnecessary.

The discussion paper also states that courts will be given the power to issue prohibition orders to prohibit violation of property standards. I have prohibited my roof from leaking. I have prohibited my car from breaking down. I have even prohibited myself from making mistakes — or did I mistake myself from making prohibitions? If a contractor makes a mistake, then the landlord is in contempt of court? I think this can only make sense to somebody on prohibited drugs.

The Landlord and Tenant Act is a major disincentive to new investment. This legislation is very strongly

biased in the favour of the tenant, and more specifically, the bad tenant. I must add that all good tenants suffer due to this. For example, the process for evictions for non-payment of rent is a licence for bad tenants who are on assistance to rob the landlord and make other tenants suffer.

**1630**

I've had a number of people who have robbed me. The way it starts is with a sad story about the tenant's problems. A compassionate landlord will often allow a tenant to carry forward a small balance which is to be made up next month. Next month the tenant gives a post-dated cheque for the 18th or the 24th of the month. The cheque bounces, but the landlord is not aware of it until the 25th or the 28th. Up to now the landlord has not served a form 4. The compassionate landlord does not serve a form 4 for a small amount carried forward or when he has a post-dated cheque. A form 4 is served on the 26th or the 29th of the month. After 15 days the landlord applies to court. In some areas you can get before a registrar on the first possible date. In other areas the first available date is in three to four weeks. The tenant is no longer making any promises or talking to the landlord. The tenant has phoned every government department. Up goes the deficit.

On the date of the hearing before the registrar, the tenant may have a dispute and the matter has to go in front of a judge. In some areas the next available date to go before a judge is three, four or five weeks. In some cases the tenant will let the landlord get a default judgement, serve it, wait the seven days, get a writ of possession, take it to the sheriff, who then visits the tenant and says, "Be out in one week." On the day before eviction the tenant will lie to a judge and have the judgement and writ of possession set aside.

In one case the judge gave the tenant 15 days to file a dispute on a matter that had been going on for three months. The dispute that was filed said the tenant was laid off from work and had no money. When the matter went before the judge, she did not appear and phoned to say she'd been in hospital, another lie, "Therefore, please adjourn the matter," which the judge did. The tenant did not appear the following week and moved out soon, owing thousands of dollars. The only thing a landlord can do to speed up the process is to serve a form 4 earlier and show no compassion. The rest of the delays are out of his hands. I could have had new carpets in half the building from the bad debts of one tenant.

Some people make a profession of robbing landlords. They pay first and last months' rents, maybe one more month, then they drag out the eviction process for three to six months. These people get government assistance cheques 12 months of the year but only pay rent for four or five months every year. One sheriff told me he had evicted the same person four times in the past two to three years. This sort of thing is also done by working people, but fewer working people do it, because with them you can go through the process and eventually garnishee wages, although often the process is more effort than it's worth.

With people on government assistance there is no way to recover anything. It can be quite profitable for tenants



and they have no consequences to face. The Landlord and Tenant Act has to be amended to make it non-profitable for tenants to spend their rent money elsewhere and wait to be evicted. To do this the process should be changed so that the matter is dealt with within two weeks of the service of a form 4. Delays should only be possible if disputed money has been paid into court. Motions to set aside judgements should not be ex parte. If disputed amounts had to be paid into court, in my opinion the caseload of courts would drop to below 25% of current levels. If this was done, we would not need to take these matters out of the court system to another system, because any new system will have a lot of delays while it's being set up.

Also, you must understand how hard it becomes to trust people after you've been fooled a number of times. Because of a few bad people, it can be harder for people on assistance to rent apartments. It may actually help them find suitable apartments if their rent was deducted from their benefits and paid directly to the landlord. I spoke to a landlord from England who only rented to people on benefits because he received the rent direct from the government.

One problem often faced by good tenants is a noisy or bad tenant. Good tenants don't want to be kept awake for weeks while the landlord evicts the bad tenants. The process should be much quicker.

Another problem with the current eviction process is that the landlord may recover the court application fee. He has no means of recovering his time, gas, parking, photocopying, paper, ink etc. Court judgements, including default judgements signed by a registrar, should include for court costs a rental per diem until the apartment is vacated and also some amounts set by regulations, maybe \$50 or \$75, for the landlord's other costs.

In closing, I just want to say that the current legislation discriminates against landlords in favour of tenants. To give you a couple of examples, first there are late-payment charges for hydro, gas, phone, water, property taxes, mortgages, credit cards etc. Almost everything has a penalty for late payment except rent. This makes a landlord a second-class citizen. Even a small late payment fee of \$5 or \$10 or 1% set by regulations would show some fairness. Second, all institutions that accept cheques charge a fee for a bounced cheque, which includes the cost of handling the cheque. I think the government of Ontario charges \$35. Landlords can only charge what the bank charges them. Maybe a fee could be set by regulations, because under the current system landlords are second-class citizens. These sorts of things may seem minor, but the perception in our society and around the world is that landlords in Ontario have laws against them, and that must change for investment to come to this industry.

I've attached a newspaper article I wrote recently. I hope you will take the time to read it. Thank you.

**Mr Kennedy:** Thank you for the stories that you've related. I want to ask you about the part where you talk in terms of low-income people. How would you see low-income people getting apartments? Rather than being protected by the system, where would you see affordable apartments for them coming from?

**Mr Pathak:** First they should be able to have their rent paid directly from the government to the landlord. This will give the landlord an incentive to rent to these people and make him secure that they won't leave him three months later owing him \$3,000.

**Mr Kennedy:** Some agencies have tried to arrange that and have been able to because the government was unwilling. More importantly, if rents go up, if there's no rent control and market forces prevail, how would low-income people be able to find rents? That's what this is really about, how we'd be able to house people whose incomes have gone down, who recently had their rents cut 22% by the government. How do we provide for those people? How would you see that done?

**Mr Pathak:** If those people don't have enough income, that's not my problem. I shouldn't be paying for their heat, their housing and their lights. That's something for the government to do, for the welfare system, for mother's allowance whatever it is, not me. It's not my bill.

**Mr Marchese:** Thank you, Mr Pathak. Just a statement, and then a question. Even the Conservatives in 1975 realized that the market was failing them. That's why they introduced rent controls. So even they, under certain economic pressures, were bound to do something to protect tenants.

**Mr Pathak:** They weren't aware of our situation at that time. They weren't aware of how bad —

**Mr Marchese:** I have a question for you. You argue differently, of course, that consumers' best protection is the market, and tenants don't agree with you, but you and others made an interesting point. You said, "We're protecting many tenants who have a lot of money but are paying very little, and those people are not going to move out." The others, who are paying a lot, are being hurt. Are you suggesting that if somehow we could develop a system whereby we could fix that, those people would be paying more but you would give a break to those who have been paying a lot? Is that the kind of thing you might be suggesting? Or would they all be getting an increase?

**Mr Pathak:** No. I would say that poor people are not getting a break under the current system. People who are better off are getting a break. When they have to pay market rents, they'll go out and buy a house because then it's worth it for them. At that time we'll have more apartments available.

**Mr Hardeman:** Thank you very much for the presentation. I just want to go to the enforcement of property standards. You expressed some concern about the fact that the violation will be the infraction as opposed to not fulfilling on a work order. My question relates somewhat to the other issue. You go to great lengths about the process, that to evict a tenant takes too long and we have to shorten that process. I think we also have a problem in the violation of property standards. Tenants are telling us that a lot of landlords are using the system not to make corrections that need to be made to shorten the time frame. Do you see it as a problem that the municipal official would come in and lay charges for a small infraction?



**Mr Pathak:** It's possible if you set out the law, especially if cities are under pressure financially. My mortgage company is in Vancouver. They pay my tax bills, and property standards infractions go to them. I've asked the city of Hamilton to phone me. I said, "If there's a problem, give me a call." They said, "No, the process is that we have to write to whoever is getting the tax bill." So instead of giving me a call, "Can you just take care of this?" they send it to Vancouver, Vancouver sends it to me and I don't hear about it for two months.

**The Chair:** Thank you very much, sir. We appreciate your input this afternoon.

**Mr Pathak:** Any other questions, my phone number is there. I'm available any time to anybody.

**The Chair:** Is Greg Kaufman from McMaster Students Union in the audience? No? Okay.

A couple of things: Mr Lampert will be appearing before the committee for 45 minutes at a quarter after 11 on Thursday morning in Kitchener — 10 minutes for a presentation from Mr Lampert plus 10 minutes per caucus to question him. That will be Thursday in Kitchener.

Thank you very much to the people of Hamilton for hosting us here today. We appreciate that.

**Mr Kennedy:** I would just like to raise a concern for the subcommittee. It seems very clear that there's been a systematic use and maybe even abuse of the lottery

system. Today we had three people chosen out of the lotteries who were all substituted for by landlord organizations. I think we want to look at that to see if it carries out the intent of the subcommittee — I don't wish to discuss it here — in terms of arranging fair and equitable access, because people we wish to put in and individuals have been substituted for. We're going to look and see if that is in some way skewing what we're hearing.

**The Chair:** If I could just clarify, the one group over which we had a dispute this morning called and notified us they would not be here. Everyone else —

**Mr Kennedy:** I'm referring to three other instances.

**The Chair:** Everyone else all through the week, two weeks, Mr Kennedy — if you had been with us all the time you would understand. On many occasions a presenter is not the same as the person whose name is on the form. It's not a perfect system, but it is the one we agreed on. We will take a look at it.

**Mr Kennedy:** We will raise it in the subcommittee then?

**The Chair:** Yes.

**Mr Kennedy:** Thank you.

**The Chair:** We are now adjourned until Tuesday at 1 pm in Windsor.

*The committee adjourned at 1642.*











## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
\*Mr Ernie Hardeman (Oxford PC)  
\*Mr Rosario Marchese (Fort York ND)  
\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
\*Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Dominic Agostino (Hamilton East / -Est L) for Mrs Pupatello  
Mr Gerard Kennedy (York South / -Sud L) for Mr Grandmaître  
Mr John L. Parker (York East / -Est PC) for Mr Young  
Mr Peter L. Preston (Brant-Haldimand PC) for Mrs Ross  
Mr Bruce Smith (Middlesex PC) for Mr Flaherty  
Mr Wayne Wettlaufer (Kitchener PC) for Mr Tascona

### **Also taking part / Autre participants et participantes:**

Mr David Christopherson (Hamilton Centre ND)  
Mr Toni Skarica (Wentworth North / -Nord PC)

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell, research officer, Legislative Research Service



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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 3 September 1996

# Journal des débats (Hansard)

Mardi 3 septembre 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Tuesday 3 September 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mardi 3 septembre 1996

*The committee met at 1307 in the Hilton International Hotel, Windsor.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good afternoon. Welcome to the standing committee on general government hearing on proposed changes to the rent control legislation. We are delighted to be here in Windsor today on a beautiful summer afternoon. We apologize a little bit for being late, but some of our members got hijacked by some local southwestern Ontario people and they were a little late getting here, but they have now arrived.

We are here today to listen to the concerns and the comments of the people from Windsor and Essex county about the proposed changes and, as usual, I'm sure you will allow that process to come forward and take place and allow the dialogue to be between the people at the table and the presenters.

I understand that Mr Maves has a quick comment he wants to make before we start.

**Mr Bart Maves (Niagara Falls):** Thank you, Mr Chair. It is great to be in Windsor this morning. On the weekend in Niagara Falls, the city of Niagara Falls hosted the bantam major triple-A baseball championships. The city of Windsor's representative team went to the finals against Welland and needed to win two consecutive games to win the Ontario championship, and they did do that successfully, winning 9-4 and 10-3. I had the honour and privilege of throwing out the opening ball in a championship game and I stayed to watch a very heavy-hitting Windsor team beat Welland. So I just wanted to offer my congratulations to the city and the boys on that team.

**The Chair:** Okay. Thank you, Mr Maves.

SUN PARLOUR  
INCOME PROPERTY ASSOCIATION

**The Chair:** Our first presenter this morning represents the Sun Parlour Income Property Association, Ed Meyer, director.

Good afternoon, sir. Welcome. You have 20 minutes. Should you allow any time for questions, we rotate the questions and we divide the time up evenly. We would begin with the Liberals. The floor is yours.

**Mr Ed Meyer:** Thank you, Mr Chairman. Mr Marchese is out in the hallway. I wonder if we might give him the hook so he can be here for the proceedings.

My name is Ed Meyer. I'm past president of the Sun Parlour Income Property Association. I am very pleased at the opportunity to speak before the standing committee on general government concerning a consultation paper

on rent control. I was originally scheduled to speak to you as president of Obolus Ltd, a multiresidential income property management company serving our valued tenant customers in Ontario since 1988, of which I've been past president for three years. I understand that your committee has been notified of this schedule change in advance.

I have been involved in this local association of residential income property owners and managers for over 12 years, and also with our Ontario umbrella group, the Fair Rental Policy Organization of Ontario. Since my views as president of Obolus Ltd and our position on this residential housing industry for Sun Parlour are, for the most part, united, I am pleased to speak before you on behalf of Sun Parlour Income Property Association.

Firstly, I'd like to applaud your efforts and your bold initiative, for the first time since the inception of rent controls in 1976, to finally address and reform the very real deficiencies of this well-intentioned but misguided legislation. I have spoken to government standing committees of the past, welcoming them to accept the initiative to truly address the immense negative impacts of this legislation on the Ontario residential rental housing market, equally disastrous for tenants and income property owners and managers alike. Today, by your actions and statements, you are committed to a real course of true legislative reform for the benefit of not just the tenants, the income property owners, but as well for all of us as Ontario taxpayers.

Over the past few months of consultation and through the past few weeks in these standing committee hearings, you have heard the many concerns and opinions across Ontario from both sides of the residential rental property marketplace, from the consumers and the owners of our industry. If you use only one litmus test in the review of these comments and in the tabling of proposed legislation, please let it be this: do not allow any item of legislation that creates an antagonistic atmosphere between tenants and income property owners.

As an income property owner and manager, I can assure you that my financial success rests solely on my ability to serve and to please my valued customers. This is fundamentally true for our entire industry. However, the rent control legislation of yesterday more often than not placed tenants in the perceived role as "prey in need of protection" and the income property owner or manager in the perceived role as "that gouging predator." This, more than anything, has done more real and present harm to the Ontario rental housing market than all the other artificial barriers to service and stability this rent control legislation has cast over all of us for so many years.

Fundamentally, the free market system will provide Ontario with the most affordable, well-maintained and



stable rental housing stock. The final end result of rent controls as we know it today is not affordability, it's not maintenance standards or stability, but rather that the existing stock of rental housing will be 100% public housing in Ontario. These may be fighting words for many in our industry, positions one can take totally for or against, but let's look closely at the free market using a model all of us can understand.

Restaurants, for example, and restaurant owners operate totally within the free market system. How many of us know a restaurant that has prospered and was successful by overcharging customers and offering substandard food? We can all smile at the obvious answer. In fact, we know that restaurants that overcharge for food either lower their prices or go out of business. We also know that a restaurant serving substandard food either quickly improves the quality of its food or it goes out of business. Furthermore, if restaurant owners are not getting the customers into restaurants that they need to make a fair and required profit, we know that they generally lower their prices to the customers, not raise them.

Finally, what happens if business in a restaurant is really brisk? Perhaps there are too few restaurants in the area and a new restaurant opens up close by. Well, again, the restaurant customer will notice that the prices in the restaurant will be lowered to entice customers to come in, not raised.

This is how the free market system works and its principles are how Ontario and Canada became great. Yes, our industry is presently artificial in nature because of 20 years of rent controls, and yes, rent controls should only be phased out in order to protect both tenants and income property owners and managers alike in the short run.

But look to the other provinces, and to Michigan, our abutting neighbour to the south of Windsor, for that matter. They have no rent controls and they enjoy stable residential housing markets, at equal or more economical rental rates than us, and with maintenance standards that frankly exceed our own. Perhaps even more important, they enjoy a normal and healthy vacancy rate that allows their citizens to freely move at will from well-maintained apartment to well-maintained apartment and from city to city.

Well-intentioned but misguided rent control legislation and the bureaucracy to run it are very expensive to maintain. This public cost is even further suspect if one considers, according to the government's own data, that only about 1.3 million housing units, or 36% of the total estimated 3.2 million housing units in Ontario, are rental units. The majority, or 64%, are owned by Ontario taxpayers who are being asked to finance rent controls, and even if these rent controls were totally effective, they have absolutely no benefit whatsoever to the majority of Ontario taxpayers.

In fact, one reason that Ontario taxpayers who rent can't presently find decent rental accommodation in their city of choice, besides the fact that income property owners haven't been building any of these units for over 20 years since rent controls were enacted, is because existing renters, who normally would buy a house or build a house for their growing families, can't pass up the

artificially low rent payments they enjoy compared with the greater cost of a housing mortgage. This point should not be overlooked, since historically renters and homeowners alike have reasonably paid about 30% of their real income on housing or rental costs. This is why public housing requires generally 30% of their occupants' income as rent. Remember, the eventual end result of rent controls, in the opinion of many experts in the industry, is 100% public housing, where occupants will be required to pay 30% of their income on housing anyway.

Let's not also forget the unfortunate statistics that the majority of public housing occupants would prefer to live in private housing. This is the reason that governments of the past have offered public housing construction cost moneys or low-interest loans, at the expense of Ontario taxpayers, with the understanding that only 10% to 25% of the suites being constructed will be public housing.

With little time available today to address the specific items of the proposed tenant protection legislation we would like to mention three important items of interest.

If you maintain rent controls in some fashion, please do not remove the rent registry. This rent registry is the only way that property owners and managers will discount their rents to the tenants within the rent control legislation and this is to the real benefit of tenants.

Please do not remove notice of building code or standards violations, or work orders required to fine or prosecute an income property owner or manager for non-compliance. These safeguards provide all involved with reasonable avenues of action, without the real fear of abrupt, arbitrary or unjustified prosecution. Remember, for the sustained health of the Ontario residential rental marketplace, do not allow any item of legislation that creates an antagonistic atmosphere between tenants and income property owners.

#### 1320

I list point 3 as a suggestion of this income property owner and management company and not on behalf of Sun Parlour Income Property Association. If rent control legislation is here to stay, in all fairness to Ontario taxpayers, please do not fund it publicly. Legislate into being a regulatory committee similar to the Professional Engineers Ontario, with the sole mandate of protecting the rights of the public, the tenants; educating income property owners and managers in their responsibilities to the public and to the tenants; managing the rent registry; and managing existing public housing.

Make it self-funding within the industry, requiring all property owners and managers of one unit or more to pay an annual membership fee based on per-rental unit quantities, with a minimum and a maximum and with mandatory membership and membership registration numbers required to be present on all income property owners' and managers' advertising and leases.

Require an annually elected board of directors, elected by representation in specific configurations of your determination by the Ontario income property owners and managers, by Ontario tenants and a specific number appointed by the Ontario provincial government. This board of directors should be legislated real authority to review and revise rent control guidelines, property maintenance standards and the Guide to the Landlord and



Tenant Act for the benefit of tenants and income property owners and the entire industry in Ontario.

In closing, I wish to thank the Honourable Al Leach, Minister of Municipal Affairs and Housing, and you, the members of the standing committee on general government, for your courage and your leadership in pursuit of real change for our residential rental housing industry.

**Mr Alvin Curling (Scarborough North):** Thank you very much for your presentation and for your recommendations too, because quite often people don't come and make recommendations. I won't ask you a question because I have just a minute. I just want to remind you that when the guideline was being presented as legislation, landlords were applauding this because that guideline brought a guaranteed profit to their business. There's no business I know of that you get into and they will give you a guaranteed profit. That is why you say, "Keep the rent registry," because the legal maximum rent that you're trying to charge you're not getting anyhow because of the market.

I would just take issue with you when you say that many people have "artificially low rent payments they enjoy compared with the greater cost of a house mortgage." The fact is that it's an affordability problem. Those who would like to access better homes haven't got the income to do so. I agree with you, I don't expect landlords to finance it, but the government has done this by a guideline that gives you a profit all along.

**Mr Rosario Marchese (Fort York):** Mr Meyer, there are several questions I would have liked to ask, but I'm only going to ask one. You have a statement here that says, "Do not allow any item of legislation that creates an antagonistic atmosphere between tenants and income property owners." We appreciate that, most of us, on both sides. The difficulty is that the compromise is a very difficult one. You make it appear like removing rent control is the best thing we could do for everybody, but for many tenants removing rent control will create yet another discussion or another antagonistic approach between landlord and tenant.

**Mr Meyer:** I agree entirely. I think our industry is very artificial in nature because of rent control legislation. I feel it's very important, first of all, to comment on the last comments. We think as an industry, and we believe the tenants also believe, that what you are doing today and what you intend to do is right on the money and that you are to be commended for your courage.

**Mr Marchese:** I wasn't saying that.

**The Chair:** Thank you, Mr Marchese. Mr Maves.

**Mr Meyer:** If I could answer that question for a moment.

**The Chair:** Unfortunately I've got to be really tough on the time because we have a full day.

**Mr Meyer:** Certainly.

**Mr Maves:** Thank you for your presentation. On page 2 you mentioned that "existing renters, who normally would buy or build a house for their growing families, can't pass up the artificially low rent." That's a huge problem in Toronto and a big reason for the low vacancy rate, that we can't get those people out of apartments. How bad a problem is that in Windsor?

**Mr Meyer:** I think it is a problem in Windsor as well, talking in a local nature. You may notice that housing

starts in Windsor over the last year are record housing starts, and because of the extremely low interest rates that exist today, in part because of the government's dedication to lowering them, people are moving out of rental units and the industry is becoming a little better with respect to vacancy rates for new tenants coming in.

I would suggest that it's very important that rent controls are phased out, because we don't want instability; we don't want our customers upset. They're our valued customers. You may want to look at maintaining the rent registry and perhaps increasing it to a flat 10% maximum increase a year so that no one under any circumstances will receive an increase of over 10% but all tenants may receive an increase of 10%. That may allow rent controls to be phased out in a more orderly fashion.

**The Chair:** Thank you very much, Mr Meyer. We appreciate your coming forward today and giving us your input.

#### WINDSOR WOMEN'S INCENTIVE CENTRE

**The Chair:** Our next presenter is Janet Greene-Potomski, executive director of the Windsor Women's Incentive Centre. Good afternoon. Welcome to our committee. The floor is yours.

**Ms Janet Greene-Potomski:** Good afternoon. I am Janet Greene-Potomski. I thank you for the opportunity to respond to the government's discussion paper New Directions, relating to tenant protection legislation for the province of Ontario. Before I begin, however, please allow me to provide you with some background of the centre which I represent today.

The Windsor Women's Incentive Centre is a non-profit, charitable organization serving women in this community since 1981. Our mandate is to promote and enhance the status of women, and we effect this mandate through counselling, skills training, community development, public education and research.

Because of the nature of our work, we are entrusted with women's accounts of inequities they meet on a daily basis. For purposes of today's discussion, I would like to share some realities many of these women face when seeking and maintaining shelter.

Statistically we know that women, many of whom are single parents, earn 70 cents on every male-earned dollar in Canada. We also know that no longer are women in the paid labour force earning pin money or top-up incomes for family luxuries. We know that most women in the paid labour force today are primary income earners, particularly within single-parent families, and for those who are living with a spouse or partner, their incomes help meet the basic expenses of living.

Sound financial planning dictates that 25% of one's gross income should be allocated to housing, either through mortgage payments or rent. Many of our clients who are working in the paid labour force earn minimum wage or little above that. For instance, a woman earning \$10 an hour has a gross yearly income of \$20,800; 25% of that amount is \$5,200, or \$433.33 a month. Current free market rent rarely meets that figure even with rent controls and protections in place. The balance must come from moneys left for food, clothing, heat, utilities,



transportation, insurance, taxes and now uncovered medical and dental needs, and the list continues.

We also know that in today's labour market many wage earners are losing their employment due to corporate restructuring, layoffs due to economic shifts and layoffs due to current political policies and strategies. In order to seek new employment opportunities, many of these people are leaving their communities and evidently in short order will encounter rental costs governed by free enterprise and profit only. We also learned that highly skilled workers have encountered wages significantly less than what they earned in their previous employment, leaving them even further behind economically.

1330

Only this last week a woman consulted with me about accelerated levels of harassment she has incurred at the hands of her landlord. She has been spat upon, called insulting and lewd names, has continually had photographs taken of her and her guests by this person, has returned to her home in the evening finding items out of place, and has further encountered her landlord standing near her window wearing nothing but a robe while exhibiting various sexual behaviours.

Although she holds receipts for her paid rent, she recently received a notice of eviction, stating that she was in arrears for rent payment. She was advised that the moneys owed were extra costs assessed over the past several months which were allocated to property enhancement. This woman is clearly being harassed, both criminally and ethically. Although there are presently legal remedies to this problem, she finds she has been reduced to proving her credibility to the authorities in place who are meant to prevent such occurrences. She hesitated taking photographs of her landlord as he stood in her window, as she was afraid she would be cited for harassment herself. What proof does she have that her landlord has been entering her home while she is away? Further, harassment is rarely conducted in full view and earshot of witnesses.

I'm not implying that the current system is working for her. I am questioning, however, how the proposed legislation and protections indicated within this discussion paper will guarantee her right to safe and harassment-free shelter for herself and her children. When the opportunity is present to garner higher rent payments from a new tenant, how will such harassment truly be prevented and stopped? The tenant, particularly a low-wage-earning tenant, is powerless against unscrupulous behaviours of a landlord who often has the economic ability to realize the best supports money can buy.

The discussion paper talks about the development of an enforcement unit which will ensure that tenant complaints will be investigated. It further proposes the development of a dispute resolution system which should preclude the need for tenants seeking legal advice and appearances in court, should they have a legitimate complaint.

On the face of it these changes appear to be beneficial. However, I question the resources made available to staff such a unit and the criteria set forth to select adjudication authorities for the proposed dispute resolution system. Will the members of this authoritative group include tenants, particularly low-income tenants? How often will

the opportunity arise for such hearings and where will they be located? If each municipality is required to enforce and adjudicate landlord-tenant issues, will the municipality be required to financially support this service? With the recent and forthcoming cuts to municipal grants, will our property taxes then be increased to fulfil these obligations? What will be the right of appeal under this system, and what financial obligations will complainants have to endure to realize an effective appeal?

My understanding is that rent controls were developed because offshore investors were purchasing large quantities of rental properties and, in order to realize a sizeable profit, artificially created reduced vacancy rates by renting only limited numbers of dwellings, thereby pushing free market prices for rent upwards, beyond the reach of many tenants. How will the proposed legislation prevent such speculation?

This past weekend I had an opportunity to visit a friend who immigrated to Canada and settled in Windsor over 30 years ago. He came to Canada as a skilled barber. From the day he landed he worked at his trade, enduring various requirements to prove his suitability to live in our country. However, he believed that the challenges before him would pay off later as he enjoyed the society created by Canadian conscience.

He owns his own business, lives in a one-room apartment at the back of his shop, regularly visits community hospitals, offering his barbering services to patients for free, and will often refuse payment from customers who have found themselves without paid work. He is a man of unwavering principle and has a keen sense of what is right and what is unfair. His lifestyle is anything but luxurious. However, he had faith that his new home in Ontario would reward him with the benefits he has paid into and supported over the past three decades. He has willingly paid into that system, believing that a better society was created out of that Canadian conscience.

He now looks at Ontario as a vacuum, sucking the benefits he worked for, paid for and supported away from him, his neighbours and many of his clients. He shudders to think of the future of the three-year-olds who climb into his barber chair for their first haircut as they grow up into a society which forgets about those who need the very most.

The changes to tenant rights are just a part of the new system which will create this new society which is eliminating that conscience of our youth. I believe, as do those I represent today, advantages given to only a few and not accessible to all end up being destructive for everyone. Thus the challenge is before this government to ensure that not only the wealthy and well educated benefit from these changes, but that benefits extend and embrace the most disfranchised in Ontario. Thank you.

**The Chair:** Thank you. We have about two and a half minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** Ms Greene-Potomski, I agree with the last paragraph entirely. In fact this is the political divide we have, obviously, in Ontario and in this room. On the other matter, that gets settled at election time, really. That's the only way to deal with those political differences.



You've raised a few issues of concern, and I agree with them as well. The harassment component of this proposal is a problem. While it's supposed to give comfort to people because it will exist and it will seem to have some teeth, there will be several problems. First, it needs to be initiated by someone, and that's a problem. The other problem with the anti-harassment unit is that of course it requires resources, and we're very worried, in a time when governments are cutting back, whether the resources are going to be there. I think you make the point that it's not going to work. Is that what you're saying, or is it that it could work if we put in resources?

**Ms Greene-Potomski:** Oftentimes I'm the eternal optimist. I find that I must look at this from both points of view, having been a landlord and having been a tenant, and also many of my clients are tenants. There could certainly be changes to our current established legislation, but changes that need to enhance the security of tenants and also allow landlords to make a decent living.

**Mr Marchese:** Sure, but it's going to be a problem, as I see it.

**Ms Greene-Potomski:** There are going to be problems. It's very, very vague, and I'm very concerned about the vagueness within the discussion paper, recognizing that indeed it is a discussion paper and asking for recommendations.

**Mr Marchese:** I understand that. It's not going to work, in my view, the anti-harassment unit, because it's complaint-driven, and people who are vulnerable tend not to know how to do it and tend not to do it because they're frightened. That's part of it.

The other part is what Mr Meyer was saying earlier on. He's saying we should let the market take care of things, that it will find its own equilibrium. In fact, he was even proposing that we just let the landlord raise it 10% a year. Do you think the market will protect the kinds of people you're speaking of?

**Ms Greene-Potomski:** No. The market, in order to continue driving, must be able to seek the best dollar for the effort it has placed into the community. There will always be people who are of financial means who will be able to meet those rent payments, no matter how high they are. The unfortunate situation is that those who are least powerful in our society will be driven to substandard housing. All we have to do is look across the river and see those who are living in cardboard boxes, cars and on the street.

**Mr Bruce Smith (Middlesex):** Thank you for your presentation this morning. Over the last three weeks, this committee has heard a great number of cases such as you described this morning, both from a maintenance and harassment perspective, and I agree fully with your initial assessment that the system does need some changes.

Having said that, and given the criticism I've heard about the proposed anti-harassment unit, if you were given the opportunity to identify three critical start points, given that this is a discussion paper, what would those critical start points be for you in terms of protecting tenants in this province?

**Ms Greene-Potomski:** Number one, when a tenant applies for a lease on shelter within an apartment or home or whatever that shelter is described as, they aren't

also at the same time provided with any piece of paper, not provided with any kind of background on what their rights are, what is suitable under the Landlord and Tenant Act, the Co-operative Corporations Act. They must then be able to ferret out who in their community would have that information available to them. It would not be at all harmful to include within a registered lease the information on exactly what are the rights, what are the expectations of the tenant, and numbers and contacts of people within those communities who could help them either interpret or enact those rights. That would be the very first thing.

Also, particularly within large structures, co-ops, condominium structures that are rented, not purchased, large apartment buildings, it seems to me that within the licensing of operating that business, it would not hurt to have tenant meetings where issues can be brought forward to the attention of the owner or of the manager so that these issues can be resolved in an efficient, low-cost and hopefully very positive manner.

1340

**Mr Bruce Crozier (Essex South):** Good afternoon. I want to establish very briefly that this is the first opportunity I've had to sit on the committee, although I'm from the southern part of the county, so some of the questions I ask today may have been asked before of other groups.

The intent behind this, in my understanding, is to find that common ground between tenants and landlords. I think we all agree that's the best of both worlds. Can you tell me, since rent controls have been in effect since 1976 and you've had some experience with people working in that area and their needs, is rent control working today?

**Ms Greene-Potomski:** Certain aspects of rent control are definitely working. Most tenants have a comprehension of what would be the legal limits of rent, what would be the legal limits of increases in rent, and it seems to have levelled the playing field for those who are seeking shelter. Certainly there are those, according to the current policies and legislation in place, who still miss that goal of seeking their own place to live and must seek subsidized housing, which also is being reduced drastically. If the subsidized housing were not being reduced at this point, the rent controls in place would probably have a much better opportunity to realize their potential.

**Mr Crozier:** When I asked if it is working, your experience perhaps would be more from the perspective of the renter. Do you see that it's in any way tipped in favour of the renter as opposed to the landlord, from your perspective?

**Ms Greene-Potomski:** Oh, I wish it were. See, the landlord may not be an incredibly wealthy person. When I had rental properties, I was not an incredibly wealthy person, but at the same time I had the financial ability, by using those buildings as equity, to seek loans if I had to; to realize the very best legal advice I could achieve; to realize the very best contracting and advice on contracting work I could receive etc. As a landlord, I had money behind me that most tenants don't have behind them to secure the safest, healthiest, cleanest shelter they can find.

**The Chair:** Thank you very much, Ms Greene-Potomski. We appreciate your input here this afternoon.



## CAW COMMUNITY DEVELOPMENT GROUP

**The Chair:** Our next presenter is Earl Dugal, director of the CAW Community Development Group. Good afternoon, sir. Welcome to our committee. The floor is yours.

**Mr Earl Dugal:** Thank you very much, Mr Carroll. First of all, I'd like to thank you for allowing our organization to speak on Tenant Protection Legislation: New Directions for Discussion.

We in our organization feel this proposal is the single biggest threat tenants in Ontario have ever faced. We feel that having a safe, affordable place to live is a right of all Canadian citizens, regardless of race, income or any other prejudicial things that might be out there.

The current Landlord and Tenant Act and rent control legislation are fair to both landlords and tenants. The current government stated that they would not touch the rent control legislation. We feel they should keep their promises and leave it alone. We feel the New Directions for Discussion will be a deterrent to tenants in the following ways.

(1) Waiting lists for affordable and subsidized housing will become longer. Windsor's vacancy rate is continually declining, expected to hit 1% by the fall. The waiting list for subsidized housing for two- to four-bedroom units are averaging from a one- to three-year waiting list. The waiting lists have already increased and are forecast to increase even more due to the other cuts by the Ministry of Municipal Affairs and Housing:

A large percentage of non-profit developments were cut that were supposed to be built.

Forcing provincial non-profit developments to meet their cores, leaving units empty until market tenants fill the units, allowing people to live in unacceptable housing.

Putting larger constraints on the budgets of non-profits, making it very difficult for them to operate.

The working poor, seniors and low-income individuals will be most affected by this new legislation. They have been continually hit by the current government changes.

(2) Over one third of renters pay more than 30% of their income in rent. The result of renters paying more than 30% of their income in rent is an increase in the number of evictions based on non-payment of rent and an increase in food bank users.

In April 1996, 66% of social assistance recipients were paying more than their shelter allowance in rent.

Eighty-three per cent of all two-parent families with two children receiving social assistance had shelter costs above the shelter maximums.

(3) Vacancy decontrol: We feel that vacancy decontrol will lead to landlord intimidation. Even the Tories anticipate that there will be landlord harassment. They have created an anti-harassment unit and have raised fines for tenant harassment.

With about 20% of tenants moving each year, vacancy decontrol will see a rise in overall rent levels. Vacancy decontrol will hit the most vulnerable tenants: seniors, the poor, the disabled, students and the unemployed.

The discussion paper proposes to have tenants and landlords negotiate a rental fee. Tenants will not have much leverage. It is a landlord's market, especially in the Windsor area, having a forecast vacancy rate of 1%.

Decontrol has not increased rental construction in British Columbia or the United States. Why would it work in Ontario? British Columbia has some of the country's lowest vacancy rates and the highest rents.

(4) Harassment: The response to this concern is that an enforcement unit will be set up to investigate tenant complaints against harassment. We do not feel this will resolve tenants' concerns against harassment. We feel that the tenant will be forced out of the unit before the enforcement unit acts, leaving the tenant to find housing in a market where the landlord can set rents at a high level, making it very difficult for a person to survive.

The Rental Housing Protection Act prevents the demolition or conversion of affordable rental housing to other uses. The discussion paper gives landlords the freedom to convert rental units to condos and to demolish existing apartment stock. Again this could lead to landlord intimidation. The enforcement unit explanation in the discussion paper leaves several questions unanswered. There is no explanation on how the process is going to work, or who is going to be on the harassment board.

(5) Tribunal: The current court system in dealing with eviction and other tenant issues is fairer to both the landlord and tenant. It is a well-defined process that has worked very well in the past. If it is not broke, why fix it? Is this really going to be a feasible alternative?

We agree that something must be done to encourage the creation of more affordable housing. We disagree with what the government has proposed. Tenants have been continually hit by the changes imposed by the current government. This plan is not going to encourage landlords to build more rental units.

### 1350

Landlord groups have been saying that the changes in the Tory paper alone are not enough incentive to build any new rental stock. What this plan is going to do is put more individuals on the street. We propose that the government place non-profit and cooperative housing back on the agenda. Non-profit and affordable housing supplies tenants with well-kept, affordable accommodation.

Tenants and members take pride in their developers. Non-profit and cooperative homes bring pride to the community. Instead of forcing tenants to live in inadequate homes, give them an opportunity to live in housing that builds communities. It is the responsibility of the government to provide housing to its citizens. It is a shame that one of the richest countries in the world has people living on the streets.

We are asking that the government move forward on housing issues, not backward. The only way to increase the affordable housing in Ontario is for the government to get back into the housing business. Thank you very much.

**Mr Joseph Spina (Brampton North):** Mr Dugal, thank you for your presentation. There's a unit complex on Ypres just near Central Avenue that is sponsored by the CAW and has the CAW logo on the front. I wonder if you could clarify for me what percentage of that housing complex — because I'm assuming it's a subsidized complex. It's a very attractive one with a day care centre and a seniors' tower and so forth — what percentage of that project was funded by the union?



**Mr Dugal:** The funding for the development itself was nothing. The child care, which is a separate entity altogether, there was an amount of money that was given by the Big Three in order to construct it for sticks and bricks.

**Mr Spina:** You're talking about the —

**Mr Dugal:** The child care centre itself. Child care, yes.

**Mr Spina:** So who paid for the development? Who funded the development?

**Mr Dugal:** The government did under the Homes Now program itself, the housing.

**Mr Spina:** So why does it have a CAW logo?

**Mr Dugal:** No, it doesn't have the CAW logo. I wish you'd go back and take a look at it. It says Labour Community Service Centre. The child care centre itself is the CAW's child care centre under Labour Community Service Centre, which is a non-profit board. If you're going to raise the issue about the CAW, please raise it in the vein that you know what you're talking about. I'd appreciate it.

**Mr Spina:** Then my question is this: If the CAW is concerned about people who may be harmed by this or the opportunity that we should have more housing for lower-income people, is this not an opportunity for the labour unions to participate in delivering some of these services to lessen the load on the provincial tax base?

**Mr Dugal:** Our CAW national is also looking into trying to develop some type of a housing program that would be for home ownership. We were also working with the previous government about working through some of the dollars that were coming out of our pension fund to do something in regard to the housing. Unfortunately, the government was defeated by this government who has definitely not been friendly to us whatsoever. I had personal meetings with Mr Al Leach in regard to some of the issues that were coming forward on the cooperative movement in his office in Toronto.

**Mrs Sandra Pupatello (Windsor-Sandwich):** Thank you, Mr Dugal, for coming today. I need to comment, and you can certainly comment again, on Mr Spina's confusion with issues relating to non-profit housing. What he was intimating was that the government has had trouble, and they have, in controlling the soaring costs of funding non-profit housing. Their answer to that, which has been the answer to every problem they've faced, is to throw the baby out with the bathwater, so instead of trying to address the real issues in housing, they just decide to throw everything out.

Mr Spina certainly has confused issues like the CAW housing units — and it's certainly not the only one in this community; there are many. If you're questioning where the private funding comes from, private funding, like the CAW moneys that they put forward, actually makes the housing community as a community because, as you well know, the government money is simply for bricks and mortar. They don't provide moneys to make the apartment community as an actual community. So perhaps after we're through tonight we'll take you on a tour of the non-profit housing communities and show you private funding, for example, CAW money that has been put forward.

**Mr Spina:** Is this a question, Mrs Pupatello?

**Mrs Pupatello:** I think we've got to be sure about what we are asking and make sure that we at least know the issues.

Janet, who presented just before you, said something very significant and that was that not only are they going after the rent control that affects the private development, but at the same time with all the cancellations in the non-profit corporations — and I was involved in one of those as well that lost this funding as soon as the election was over. When you see those two things happening at the same time, what do you see as the result for those on the very lowest income level in our community?

**Mr Dugal:** As we're finding out, today in our organization we're having an average of between 400 to 500 people who come into our office looking for affordable housing and there is no market for that. All we can see happening is that number growing even more so if this type of legislation is put forward.

But I guess one of the concerns I have, and I should raise it, is the fact that this government has done absolutely no research at all about what will happen if there is no other housing built and what we should do about trying to house some of the people who are still looking for housing. That's the real question that's out there today. Again I'd like to ask the Chair, if there is going to be a committee structure, to do some research to find out that question.

**The Chair:** As Chair of the committee, I have no idea of the answer to that question.

**Mr Marchese:** Mr Dugal, thank you for the presentation. A few quick questions. You've read the report, obviously. One of the stated intentions of the government, Mike Harris and many of the others, was that they wouldn't do anything that would hurt tenants. In fact they were going to make sure that the tenant was protected. Did you read anything in this document that would lead you to believe that somehow tenants will be protected?

**Mr Dugal:** No.

**Mr Marchese:** I didn't either. One of the other things that they said was that of course the present situation needs to be fixed because it's a problem and so what we need to do is create incentives for the developers to build. Did you read anything in this proposal that somehow gives you the sense that we're going to have housing created by the private sector?

**Mr Dugal:** To be quite honest, I haven't seen anybody — and we've been working in the field for 10 years — come forward to talk about building any type of new housing for rental in the last year or two years or whatever and I don't see anything coming forward even after that. All we're doing is putting more people out on the street.

People have got to start realizing that there are people out there who have no place to live and if we create now another problem for people, it's going to mean more people out on the street with no place to live. What do we do with those people? Again, there's no answer to that. All there is is: "Let's change the legislation to help the landlords, to protect big business, and for the people who can't afford it, it's too bad." That's the sad part about what's happening today.



**Mr Marchese:** I agree. I want to tell you, I will predict that they will create a housing crisis. The government isn't building. The private sector hasn't been building for the last 10, 20 years. They say that as well. The rental housing protection will get rid of rental accommodation that is affordable and in the end, in four years' time, before they're out of office, they're going to say, "Well, we're going to have to put out that carpet out there in order to get them to build because we have a crisis on our hands." That's what I think they're creating, by the way, is a housing crisis.

**Mr Dugal:** And I agree.

**The Chair:** Thank you, Mr Dugal. We do appreciate your input here this afternoon.

I'd just like to ask the members of the committee to please understand that we are here to listen to the presenters and conversations going on among yourselves make it very difficult for me as Chair to hear what they're saying. So I would ask you to please show the respect that the presenters deserve and that is to listen to their presentations.

Our next presenter — and I don't know whether she's here or not — is Kay Kavanaugh.

1400

#### DANZIG ENTERPRISES LTD

**The Chair:** I understand that Tim Fuerth, vice-president of Danzig Enterprises Ltd, is here. Good afternoon, Mr Fuerth. Welcome to our committee. The floor is yours.

**Mr Tim Fuerth:** Thank you, Mr Chairman, members of the committee, for showing the patience of travelling the province for the last two weeks and for the remainder of this week listening to various submissions on this very important issue dealing with the housing policy.

We've heard various comments already today. I have provided you with a fairly detailed package containing, I believe, some 18 recommendations that we put forward to at least assist in addressing this problem.

It's been suggested that there's a housing crisis or that at least a housing crisis will be created. I submit to you that at least in Windsor, and I think it's probably indicative of the province, that in fact the housing crisis already exists and it exists because of the policies that have failed over the past 15 to 20 years under rent controls.

In my submission I've provided quite a lot of detail, but there are a number of unmistakable facts. One fact is that in Windsor in October 1995 we had a 1.8% vacancy rate in private rental structures. The second fact is that the vacancy rate is projected to be 1% in October 1996.

Also, according to Canada Mortgage and Housing Corp in its October 1995 rental report, it is indicated that since 1984 80% of all multi-unit high-rise rental construction in the city of Windsor has been assisted construction and 100% of all row housing development has been assisted construction.

It doesn't take a rocket scientist too long to figure out that in Windsor there really has been no private rental construction for some 12 years now and it doesn't take a lot to figure out that that aging rental stock is deteriorating day by day and certainly rent controls contribute to,

as we'll hear, I'm sure, from a number of subsequent presenters, the deterioration of that rental stock.

In our submission, we've indicated 18 recommendations. Probably first and foremost, it's appropriate to deal with the discussion paper which was released.

Our overall comments on the discussion paper: Its intended effect is to stimulate housing construction and to improve the quality of the rental accommodations, and that's important. If you walk around Windsor and start looking through apartment buildings, you're going to see that there are a number of apartments that are available for rent. Most of them are very poorly maintained and rent controls really have contributed to that.

It's indicated in our submission that we've constructed about 700 new apartments in the late 1970s, early 1980s. We've constructed nothing since then. We hear day in, day out from tenants coming particularly from out of town looking for apartments how disappointed they are in both the cost of the rental accommodation here and as the quality of the stock and how inferior it is in relation to the rest of the province.

The real fundamental problem has been kicked around so far today, but it hasn't really hit the nail on the head. The problem in itself, it seems to us, is not that rent controls work or don't work. There are lots of rhetorical arguments that can be made, whether it's good, bad or indifferent. The real problem is that people don't have the incomes necessary to actually pay the rents that are supported by the cost of running the structure, the property taxes, the mortgages and so forth. That really is the fundamental problem we face, that the tenants can't afford to pay the rents. It's not that the rents are high or low; it's that the people can't afford to pay those rents.

In our proposal, we've suggested that an approach should be pursued to investigate a shelter allowance system whereby those people with lower incomes who are really in need of assistance, that that assistance should be targeted to them rather than the assistance being targeted to every renter, whether their income is \$10,000 a year or \$100,000 a year. There are a lot of millionaires who are benefiting from the current rent control system.

That's the approach we believe the government should really be pursuing and that will take out all of the rhetorical arguments that the various parties have been throwing about in terms of whether rent controls are good or rent controls are bad; the reality is that there are costs incurred to run a complex; the reality is that the property owner has to pay those costs. And the reality is that if you keep rent controls and you keep rents artificially low, the owner of that property has to pay his mortgage, he has to pay the property taxes, he has to pay the utilities and he has to pay the insurance. The nuts and bolts of it are that when there's money left on the table — and there's not going to be very much of it — that money is going to be all there is to fund improving and repairing those buildings.

As I emphasize, certainly in Windsor the stock of apartment buildings is aging, and aging quickly. Unless there are additional funds available for those property owners to refurbish them, those tenants are going to come into our office day after day and complain about the inferior quality of the rental stock in this city. There can be no mistaking it.



Our view on the proposals: It is entitled "Tenant Protection Legislation" and there seems to be a lot of discussion on whether it's an appropriate title. Our view is certainly that it is an appropriate title because as far as the tenants are concerned, they will be getting protection. There are a large number of rental units in the city of Windsor — I believe it to be a majority of the rental units — where the units are being rented at lower than the maximum rents, the rent control rents. It's hard to imagine that any landlord is going to start increasing their rents to unrealistic and unreasonable levels and empty their building, as was suggested by one presenter before, that there's a scheme to have a low vacancy rate by not renting your apartments. As I say, as a landlord it does absolutely no good because you still have your property taxes to pay, your mortgage to pay and the like. That's a foolish argument that has been put forward.

Our view is that the proposals that have been put in place clearly protect the tenant. There is some benefit to landlords potentially, but on the whole — and you probably haven't heard this and you may not hear it again from a landlord — our view is that if you're not going to have market rents or something that will approach market rents over a predetermined period of time, you should just leave the current legislation in place because what you're proposing is worse than what we have now. I don't know if you've heard that, but certainly that's our view.

**Mr Marchese:** We haven't heard that.

**Mr Fuerth:** We should leave it the way it is. I heard the comment, "If it's not broke, don't fix it." My feeling is it's broke, and if we're going to break it some more, we might as well leave it broke the way it is rather than just break it worse than it already is.

We have contained in our material a number of recommendations that I think are self-explanatory — I'm watching the time. Certainly there are a number of aspects of the Landlord and Tenant Act that bear looking into. The pet provisions in the Landlord and Tenant Act need to be strengthened. Landlords need to be given some additional powers to prevent damage to their units because of those tenants who don't follow pet provisions.

Our thought, as we've set out in the discussion paper — Mr Meyer earlier this afternoon suggested that annual guidelines should be 10%. Our view is a little bit more conservative. Our view is that perhaps the guideline should be 4% to 5% a year over a period of time, which would have the objective of over five to 10 years bringing rents to the market level but will at least protect those sitting tenants from exorbitant — and I consider 10% certainly to be exorbitant. I'm not sure that I would consider 5% to be an exorbitant rent increase.

The discussion paper talks about preventing unfair rent increases. There's a real problem with everyone's interpretation of what exactly the word "unfair" means. To one person it means different things. Is it really unfair that a landlord should have the right to earn a reasonable return on his investment? Certainly a number of the housing groups, as we've heard, that support rent controls haven't put any of their money into rental structures and I'd encourage a number of those entities to use their own funds to build new construction, new rental units. Is it

really unfair that a landlord needs a higher rent increase to properly maintain a building so that the tenants have a place they're proud to live in? I would submit to you that it's not unfair.

The reality, and I guess another unmistakable truth, is that you get what you pay for and only what you pay for. When we have a system where rents are controlled, tenants are going to get what they pay for, and if they're controlled and they're controlled on the downside, ie, biased towards lower rents, they're going to get worse quality apartments and fewer of them. There's just no mistaking that fact, because in the end you get what you pay for and only what you pay for.

I've spoken now for approximately 10 minutes. I'd like to use my time, if I could, to answer any questions on what I've said and on our submissions.

**The Chair:** Thank you, Mr Fuerth. We've got about three minutes per caucus, beginning with the Liberals.

**Mr Curling:** I am going to try to ask a question and get Mrs Papatello to ask you another. There's so many things here that I totally disagree with you on, but again the fact is it provoked a lot of questions here. I will go straight into it actually, but thank you for putting forward some recommendations.

One of them is recommendation 1, but before we go to that, let me quickly tell you this. Your guideline that you were getting all along had maintenance and all the operating costs involved in that, and a guaranteed amount of profit that you could get. No other industry gets that. But you're saying here now in recommendation 1 that allowances should be paid directly to landlords to ensure that Ontario taxpayers funding such a system would know what their tax dollars are actually being used for.

1410

I put it to you: If you were working somewhere and paying rent at another place, do you think that landlord has a right to come to your company and say, "You send that person's pay slips over to me so I can guarantee my rental amount of money coming to me"? Do you feel that is fair?

**Mr Fuerth:** I guess what I feel is fair to the Ontario taxpayer is that if they're paying for shelter, those funds should, in the end, end up paying for shelter. Certainly one of the items contained in our report is that under the current system where people are receiving shelter allowances — and let's not fool ourselves or let's not kid ourselves. If you go and sit in the courthouse here, which in Windsor is on Thursdays every two weeks for landlord and tenant court, invariably most of the evictions are for non-payment of rent. Invariably, most of the people who are tenants have been there before — you start to recognize all the faces and the names — and invariably they're receiving shelter allowances. But obviously those shelter allowances that we as taxpayers are funding aren't getting to the landlord to actually pay for that housing.

**Mr Curling:** I won't follow through on that, but let me ask you another one: actual market legal rent. You're a landlord now. Do you get the legal market rent that you charge for, or do you charge for less?

**Mr Fuerth:** In terms of the maximum rent?

**Mr Curling:** Yes.

**Mr Fuerth:** In some cases we're charging the maximum rents.



**Mr Curling:** And some are paying less?

**Mr Fuerth:** In other cases, we're not.

**Mr Curling:** So the guideline allows you to go to that maximum legal rent anyhow.

**Mr Fuerth:** That's correct, but what's being proposed under the proposals is that the rent registry be in effect abolished. I don't go so far as the previous presenter in suggesting the rent registry be maintained, but I do think the onus in the case where there's an application for an illegal rent — that by taking the rent registry at the date of transition, the onus be on the landlord to prove that the rent three years from now is in fact the legal rent. So there's no need to maintain the rent registry at great cost to the taxpayer when the onus of proof can easily be placed on the landlords, which is really where it should be.

**Mr Marchese:** You said one thing I agree with, and that was that people don't have incomes to pay for rental accommodation. That's something that has been said by Professor Hulchanski, who says the reason the developer has not been building is because there is an affordability problem. There is no demand because people can't really afford to buy or to rent at rents that are excessive or housing prices that are just too high. So we have an affordability problem, therefore there's no demand, therefore there's no supply. Basically, that's what he said.

While I agree with you that that is the case, that people don't have the income really to pay for rents that may be excessive, you on the other hand seem to suggest that a 4% or 5% increase a year might be all right, and presumably by saying so you're assuming that people can afford that. Is that more or less fair?

**Mr Fuerth:** I talked earlier about the definition of "unfair" and people's interpretation. What I would submit to you is that a particular rent increase where those funds are being used to improve, to refurbish that rental structure, in my view would be a fair increase because the tenants in that structure will in effect be getting their funds returned to them in terms of a better-quality place to live, a place to be proud of.

**Mr Marchese:** I have two problems with that. First of all, I'm not sure that people can continue to afford more than what they are paying. We're hearing a lot of people saying that more and more of their income is going into housing, and that's a problem. You're suggesting that paying a little more might not be so bad because they'll get a better return in terms of the building, but the real problem I have is that many people have already been paying for that. The assumption you're making is that landlords are of course putting back every penny that they've been getting through the guideline and above the guideline, that it has been going back into the repairs of the building. What guarantees are there that if you remove rent control, somehow every penny will indeed go into maintenance?

**Mr Fuerth:** The guarantee is a market system. If a landlord isn't repairing his building and the person next door has a building and he is putting the money back into the building, it's going to be much easier for that landlord next door to rent his unit. The landlord who is not repairing his building, not putting the money back into

the property, is going to have invariably over a period of time a very deteriorated and ultimately an empty building on which the property taxes still have to be paid, the mortgages still have to be paid, the insurance still has to be paid, the utilities still have to be paid.

**Mr Marchese:** Rent control, however, is not creating such a problem at the moment.

**Mr Fuerth:** No.

**Mr Marchese:** Once we remove it, then the competitive forces will take over, but at the moment rent control is preventing this thing from happening.

**Mr Fuerth:** In some cases, yes.

**Mr Marchese:** I don't see that at all, but I have another question for you. In terms of building affordable housing, we know that the private sector doesn't build, has not been building, doesn't want to build because there's no fair rate of return — whatever that is — to the developer. Who should be building affordable housing for people who clearly are having an affordability problem?

**Mr Fuerth:** I think the issue is not affordability as a problem but addressing that problem of affordability by putting the funds into those tenants who are truly in need. There are a number, as I've mentioned already, of beneficiaries of rent control who could afford to pay more rent. I think the problem is that we cast everybody with a broad brush, that you need assistance to avoid paying a fair rent, rather than directing the funds to those people who truly, genuinely and legitimately are in need of assistance.

**Mr Marchese:** But we're doing that now.

**Mr R. Gary Stewart (Peterborough):** Thank you, sir, for your presentation. I have to applaud you because you have come forward with some recommendations. It's my thought that these hearings were about listening to people and finding recommendations or reform of the present system that appears not to be working.

I want to go back to recommendation number one, which is to pay directly to landlords. We have heard more and more over the last couple of weeks that landlords are not getting involved with affordable housing because they are concerned about not getting paid, period. I hear, as Mr Marchese just mentioned, that rate of return is the reason they won't build. Maybe it isn't rate of return, but not getting paid, period. We're hearing about people who are in apartments for 18 months and paying two months' rent; 16 months and paying three months' rent. I guess my question to you is, and it goes along with what Mr Curling was saying, if the landlords were guaranteed payment of rent through shelter subsidy, do you believe they would start to rebuild again?

**Mr Fuerth:** I believe they would, and I believe the reason they would is because the rate of return would increase. Every lost dollar in rents that you're not collecting is reducing your rate of return. I did address earlier the shelter allowances, and there's some discussion about it being unfeasible that they be paid directly to the landlord. Certainly that may be true. One of the organizations, Ontario Fair Rental Policy, put forward what I thought to be a very good proposal in the sense that if the rents are guaranteed and if tenants default on their rental payment, a landlord would simply go to the appropriate



office and make notification of the fact that the rent has been missed and it will be paid.

I think it would also mean that those less advantaged people in society would have access to a greater selection of housing than they currently have.

**Mr Stewart:** I think that's what we're hearing. Another thing came out a number of times, and that is, why do we always have to build new housing? Is there not another way? Everybody seems to want to be in a new place, and I guess all of us are in the same boat, but if we're going to have subsidized housing or if we're going to build non-profit or whatever, or generate somebody to do it, why do we always have to do new? When we look at statistics over the last few years, the government was paying \$100,000 a unit and the private sector could do it for \$60,000 or \$70,000. In your mind, do we need new units? Why don't we start refurbishing some older buildings? Do you think the landlord would do it if he's going to be guaranteed payment?

**Mr Fuerth:** I think there would be a tremendous incentive. If you're doing a return analysis, if you can conclude with certainty that your rental income will be there, it would make it that much more forceful an argument to in fact do so.

**Mr Stewart:** And old or refurbished instead of always building new.

**Mr Fuerth:** Yes.

**The Chair:** Thank you very much, Mr Fuerth. We do appreciate your attendance with us this afternoon.

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For our next presenter, I'll go back to Kay Kavanaugh. Is she here yet? Then we'll ask Dean LaBute, chair of the Windsor-Essex community advocacy group.

**Mrs Pupatello:** Mr Chair, is Mr Fuerth, the last gentleman, the one who is on at 7:20 tonight?

**Clerk of the Committee (Ms Tonia Grannum):** He's cancelled at 7:20.

**Mrs Pupatello:** He's not on at 7:20, so you have made a change to the agenda, Mr Chair?

**Clerk of the Committee:** No, he's vice-president of the group.

**Mrs Pupatello:** But you have opened up a later slot?

**The Chair:** Yes.

**Mrs Pupatello:** Thank you. Just so we know. You've set some precedents there today, Mr Chair.

**The Chair:** I haven't set any precedent. The precedent is set.

**Mr Marchese:** Mr Chair, a quick clarification. That was the Windsor-Sandwich riding association?

**The Chair:** No, it was Danzig Enterprises. He gave you a written submission.

**Mr Curling:** But he's not presenting later on.

**The Chair:** He is presenting later on again for another fellow. The clerk has a letter on that. Somebody else has designated him to make their presentation because of illness. Bill Taylor, because of illness, has asked that Mr Fuerth make his presentation.

**Mrs Pupatello:** So is Bill Taylor not on at 5:40?

**The Chair:** No, Mr Fuerth is making his presentation for him.

**Mrs Pupatello:** So the fellow at 7:20 is not on, but he's being moved to 5:40.

## WINDSOR-ESSEX COMMUNITY ADVOCACY NETWORK FOR PERSONS WITH PHYSICAL DISABILITIES

**The Chair:** Good afternoon, Mr LaBute. Welcome to our committee. The floor is yours, sir.

**Mr Dean LaBute:** Thank you, Mr Carroll, and good afternoon, ladies and gentlemen. My name is Dean LaBute, and I'm the chair of the Windsor-Essex Community Advocacy Network for Persons with Physical Disabilities. We welcome this opportunity to appear before you today.

Ladies and gentlemen, throughout history there has been an ongoing struggle between those who have power and those who do not. You will find throughout the annals of history what took place centuries ago. Themistocles's cry to Euripides of "Strike if you must, but hear us first" applied then and applies today.

If the government of the day wishes to proceed with new directions, it has an incumbent responsibility to listen to the people and to act upon their recommendations. That is what we expect of a democratically elected government, and we expect no less.

The Harris government's paper entitled *New Directions*, ladies and gentlemen, happens to be most intriguing. We look upon this paper as failing to make the transition from the tossed sea of cause and theory to the firm ground of result and fact. If it is the intention of this government to put forward this paper strictly as a discussion paper, then you are to be commended, for you have stimulated discussion across the length and breadth of Ontario. But if it is the groundwork for proposed legislation, then I tell you, ladies and gentlemen, that *New Directions* is the bastard child of the illicit union of dogma and propaganda, conceived on a bed of false and blind hope in the free market system.

The result of the implementation of this document as it stands would be detrimental to the more than 3.3 million tenants in Ontario. Those 3.3 million tenants in Ontario have reason to be concerned because tenants' rent rates will increase, will in fact skyrocket. There will be many people seeking housing but unable to afford it. The question then is, where do they go? That has been posed before to you.

If this is continued through to its illicit end, it is our contention that where these people will go has already taken place in history, and history will be repeating itself. Go back to Steinbeck's book, *The Grapes of Wrath*. In there, in the Dirty Thirties, we had tent cities erected because people had no place to go and no means to keep a proper roof over their heads. Is that what we foresee for Ontario? I hope not, ladies and gentlemen. Absolutely not.

The facts remain as the following: This document fails to recognize the changing demographics of Ontario. Canada, as you know, is unique in the world in that we have a larger segment of our population as baby boomers than any other country in the world. In fact, baby boomers represent 34% of the population. Their needs are changing. The need for rental accommodation will change, will in fact increase. These issues are not addressed in this document.



Between 14% and 16% of the population of Ontario are people with disabilities. With 3.3 million tenants in Ontario, you're looking at approximately 500,000 people with disabilities who are tenants. That will continue to grow, because according to Health Canada and Stats Canada, it is projected that by the year 2015, one in four people in Canada, therefore one in four people in Ontario, will have a disability. Consequently, they will be unable to maintain a single-dwelling home and will require to go into apartment living or some other means of accommodation to suit the changing needs. We are all growing older; we are all living longer. A byproduct of growing older and living longer is disabilities. Consequently, the housing market today and in the future will have to adjust to meet the changing needs of the citizens of Ontario.

We implore you to listen to what the people have to say and to act on that accordingly, for in good government and under the democratic process, we abide by the rules of majority government, but it's incumbent upon the majority government to watch for and protect the rights of the minority. In this case, we're talking about the tenants of Ontario. In doing so, you will be contributing to good government.

As for recommendations, we recommend, because of the importance of this subject, that a commission be struck by the Ontario Legislature to do an in-depth study on the issue, to address the current needs and the future needs of tenants of Ontario; and that that commission be comprised of members of the Legislature, landlords and tenants; and that they have the ability to come back uninhibited by ideology or dogma but rather to come back with what's in the best interests of all tenants of Ontario. That is one recommendation.

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A second recommendation would be that you recognize the changing demographics of the population of Ontario and provide that that be acknowledged in the final product brought forward for the benefit of all people of Ontario.

Therefore, you will protect the rights of those in the minority position, you will be looking out for the best interests of all Ontarians and you will see to it that we have a level playing field for both landlords and tenants.

I have heard, sitting in the chair waiting to make my presentation, about the concerns of landlords about their return on investment. It's my understanding that compared to any other sector in the last 10 years in Ontario, the rate of return on investment for landlords has averaged 10%. I am not familiar with any other sector in our economy that has maintained that level of return on investment.

There have been comments made about housing stock, the depleting amount of housing stock and the decrepit shape of housing stock. That I blame on this government and the previous governments, be they NDP or Liberal, going back to the time of Mr Davis, because there was not the mechanism put in place to properly monitor housing stocks and see to it that buildings were properly maintained. There was a component, as I know and you know, provided in rent that in addition to a profit margin, money was to be reinvested in the upgrading of the stock. That has not been done. The question that must be asked

is, why was that allowed? When I hear that there is millions and millions of dollars in work required to bring the housing stock to standard, why has it been allowed to deplete to that point?

I say to you that you have an opportunity, as members of provincial Parliament and as representatives of the people, to act on behalf of all the people and act fairly and equitably. I would entertain any questions.

**Mr Marchese:** Thank you, Mr LaBute, for your presentation and for some of the observations you've made. First of all, we have read as well that there is a 10% rate of return — not average but annual rate of return — over the last 10 years. Even if that person who did that study in the *Globe and Mail* was wrong and the rate of return is 5% a year, that's still quite good, don't you agree?

**Mr LaBute:** In today's economy I would say that the other sectors of the economy would very much entertain and welcome a rate of return of 5%.

**Mr Marchese:** You made another point about maintenance and not putting into place any mechanism to make sure that whatever money was received by the landlord at the guideline level or above the guideline went back into maintenance. That's a real problem, because we have a lot of landlords saying, "We have a stock of buildings that is deteriorating." It makes it appear that all those dollars they've been getting over the years have been poured back into those buildings, but we still have a poor stock of buildings and as a result we need to get rid of rent control to fix that problem. Do you think if we remove rent control, somehow those landlords would put more money back into the buildings? Do you have a sense of that?

**Mr LaBute:** When rent controls were brought in by the Progressive Conservative Davis government, in 1974 as I recall, there was a need then, I maintain there is a need today and there will be a need in the foreseeable future. I see no other reason for the removal of rent controls, but they can be built upon. You have a foundation and it is not perfect. They can be built upon and made to benefit all parties concerned.

**Mr Marchese:** I have a quick question on the issue of disabilities and whether or not accommodation will happen for them. My fear is that the private sector has not built around people with disabilities in the past and they certainly haven't been building very much at the present time. My concern is that unless governments do the building to take care of the kinds of accommodation that needs to be put in place with people with disabilities or with HIV, we're never likely to see that unless somehow something is going to happen in the future. What is your feeling about that?

**Mr LaBute:** I share that point of view, but the fact remains that in Toronto, where you people emanate from, you have Professor David Foot at the University of Toronto who has written an excellent book on the changing demographics of Canada. It outlines clearly, unequivocally what will take place in Ontario and in Canada in the next 20 years. I suggest you read that book and incorporate it when you're drafting legislation and suit your legislation to address the changing needs of the



population, and therefore you will address the needs of the disabled.

**Mr Ernie Hardeman (Oxford):** Thank you, Mr LaBute, for your presentation. First I want to make sure — I heard you mention that the rate of return on investment was fairly good considering today's economic times. I point out that the figures being used are over a 10-year period. There were some different economic times in that 10-year period, and some of the years are no return or very little return. I'm not suggesting that's the end to the problem.

**Mr LaBute:** Yes, and I stated that the average over the 10-year period was a 10% return on investment.

**Mr Hardeman:** A previous presenter made the comment that if we were not going to totally decontrol, for the landlord's benefit the present system was better than what we were proposing because of the decontrol and recontrol on units.

We have consulted with some 60 different groups and organizations, both in the development sector and in the rental sector, and they all told us the system was broken and needed some repair, that it wasn't working, that quality accommodations were unavailable for the price people could afford to pay. Having said that, what would your suggestion be if the discussion package is not the answer and the present system is not the answer? Almost everyone involved has told us that. What do you think we should be doing as it relates to the two packages that would solve some of these problems of trying to get decent accommodations for people to live in?

**Mr LaBute:** As I stated in my first recommendation, we are of the opinion that to serve the best interests of the more than 3.3 million tenants in Ontario, it warranted a commission being struck, not tied to any ideology or dogma from any of the three parties but rather given the clear, unequivocal mandate to search out, investigate and come back with recommendations, therefore being an independent, arm's-length commission from the government. The government would not be chastised for adopting any recommendations that were brought forward through the commission. Rather they would be commended for acting upon and fulfilling their obligation to act.

**Mrs Pupatello:** Thank you, Mr LaBute, for coming to speak to us today. You have been quite busy since the last election. You launched a successful appeal against changes to the building code. The minister at that time was not aware of the significant impacts on the community of people with disabilities, and you were very successful in doing that, so we're glad you're back again, although they're not giving you any rest since the election.

Nevertheless, you quoted David Foot. In dealing with demographics he not only addressed the future but also the present, and he called them senior seniors, that today we have senior seniors who are probably the poorest Canada has ever seen and that the grouping of senior seniors will increase, that as the boomers move to seniors and seniors to senior seniors, they will become more poor. So it's an issue today, not just an issue tomorrow.

What the government is currently proposing in lifting that one-time increase — for example, most of our senior seniors are women on fixed income and are considered

poor. If a senior senior woman becomes very disabled and would prefer to move to an apartment that's close to the front door, say, of the building, in moving from the third floor at the end of the hall to the first floor by the front entrance — that move within the same building — she could face a significant increase in rent. The problem is that she can't move there because this current government would allow that rent to go up, but she can't afford that rent now as she's probably paying more than what she should be paying, more than the 25% recommended. Governments say you shouldn't spend more than a quarter of your income on rent.

What do you see happening to senior seniors, most of whom are women, and they are the poorest women Canada has ever seen?

**Mr LaBute:** If these and other questions are addressed by such a commission, they have to take into consideration the change in dynamics and the economic dynamics of the aging population and accommodate for it accordingly.

**The Chair:** Thank you, Mr LaBute. We appreciate your coming forward this afternoon with your suggestions and your input.

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#### SCARSDALE TENANTS' ASSOCIATION

**The Chair:** Our next presenter is Donald Fraysure, chair of the Scarsdale Tenants Association. Good afternoon, sir. Welcome to the committee. The floor is yours.

**Mr Donald Fraysure:** Thank you for hearing my presentation. I'm Donald Fraysure, chair of the Scarsdale Tenants' Association. The Scarsdale Apartments are a complex of two buildings of three storeys each with a total of 48 units on Tecumseh Road East in Windsor. These are a private investment for income apartments. This is my third time before the standing committee. They all dealt with rent legislation.

My presentation, like the others, is based on the government's discussion paper as much as one can, considering its lack of precise information and its reliance mainly on generalities.

We start with page 1 and what the government calls "Goals for a New Tenant Protection System," with the following breakdowns:

"Protect tenants from unfair or double-digit rent increases, evictions and harassment and provide strong security of tenure."

(A) How can double-digit or unfair rent increases be avoided when tenants' rights are forgotten and landlords' rights become paramount? The first empty apartment in the province after the law's passage starts the build-up of landlord greed, as is man's nature when he has a chance. Multiple vacating of the same apartments will make double-digit rent increases common again regardless of market rents. It is very evident that without any kind of cap on vacant apartment increases, government's promise of no such increases being allowed means absolutely nothing. We so-called sitting tenants could be economically locked into what could be increasingly bad situations with 8% to 10% annual rent increases. This holds true particularly for seniors and people on fixed incomes.



(B) Economic evictions will become the tool of some landlords, along with harassment, to have even a larger turnover of tenants than the present 25% annual average. We get the promise of yet another bureaucratic enforcement unit for the relief of harassment. Again, are legal questions being taken out of the hands of legal experts and judges and put into the hands of bureaucrats? This with the promise of less red tape on page 1. Harassment is still one of the hardest complaints to prove.

(C) How can tenants have a strong sense of security of tenure with the most basic of tenants' rights being withdrawn, starting with more loss of available affordable housing with the actions of the government in regard to non-profit and co-op housing?

"Create a better climate for investment in maintenance and new construction."

(D) This legislation will not create a climate for investment. Several presenters from construction and development before the committee have said that rent control is not the culprit. How many times does it have to be pointed out just to look to British Columbia, among others, to learn that this type of legislation does not work? There has been no increase in rental housing construction there since the legislation banning rent control was passed.

"Improve enforcement of property maintenance standards."

(E) We, to a point, back your property maintenance standards improvements on pages 3 and 4. For instance, be more realistic in the fines levied. Are they enforceable? Fines now levied are usually in the low hundreds at the most. Work on it; be sure that what you do works. We agree that the present laws and bylaws are too weak. They need to be streamlined, and that includes the two-tiered system to settle disputes. Again, you are dumping on the municipalities responsibilities without spelling out where aid, both financial and manpowerwise, is to be found.

We have had direct working contacts with our city of Windsor housing department. In my last presentation before the committee I pointed out our plans. We followed through and had a building inspector and work orders, the whole bit. I must say the work that was passed and the amount left undone but passed left a lot to be desired. Our next step under Bill 121 was to go to the local rent control office, and a rent officer handled our case. The case was partially solved by the landlords and tenants negotiating a settlement. The landlords put aside a \$25,000 trust to start on a list of needed repairs. The tenants withdrew their list of filed complaints. This was done with a minimum of the rent officer's input. In the end the repair list was still not fully done.

We learn now that there is an outstanding account number from Canada Mortgage and Housing Corp against Scarsdale Apartments to finish a list of repairs and maintenance that includes some of the windows and other items from our old complaints or else a holdback will be imposed. It is very evident that our landlords have to be forced to get the proper repairs and maintenance done.

Our experiences certainly point out the need for stronger provincial enforcement of repair and maintenance standards, but in a better way. With the high rate of

construction in Windsor and the area, property standards officers are and will be increasingly snowed under with work. Has this contingency been planned for?

"Costs no longer borne" will no longer "be calculated for capital expenditures."

(F) The use and need for capital expenditures, page 3, should be clearly and specifically spelled out once and for all as to the definition, limits and responsibilities of the usage of these expenditures. We do not agree that costs no longer borne should be done away with. Also, the additional 1% to lift the cap to 4% is uncalled for and unfair. What is to be the final usage of the 2% in the guidelines for the sitting tenant's rent? It is now for capital expenditures, but is it not to be accounted for under the new legislation? Another hidden profit?

We point out the above because of our experience with previous legislation, RRR 1986. This was in regard to a phase-in for financial loss for the years 1989 and 1990 for an additional 10% to our rent. I would like to quote from Hansard of August 22, 1991. This is from my second presentation before the standing committee: "Even with our landlord no longer able to claim financial loss," for 1991 "he will be able to receive...financial loss from 1989 and 1990. Hence...this amount compounded...remaining on our rents, becomes an additional windfall profit to the landlord. That should be corrected."

Now, five years later, this compounded windfall still remains in our rent and the landlord profits.

This is what can happen with the 4% per year. It will continue as a windfall profit to the landlords like the phase-ins in our rent. Even after the capital repair is paid off out of the rent increase, it will continue in the rent. There should be an annual financial statement of proof to assure tenants that they are not being ripped off again.

#### 1450

Another allowable rent increase for the landlord is the increase based on property taxes and/or utilities, with no limit under this increase, but the tenant cannot ask for a rent decrease based on a decrease in rates.

Another tenant tax burden is the discrepancy in some situations where tenants pay many times the tax cost of the residential private home owner. This should be assessed at an equalized tax rate for all.

"The rent registry will be eliminated and maximum rent will no longer be calculated."

The rent registry should not be eliminated. It has taken years to build up this pool of information for both landlords and tenants. This is the only place with a list of maximum rents for comparison and it is an inventory of housing units. It is another example of the withdrawal of tenants' rights by the government.

"To care for tenants instead of units."

In targeting tenants instead of units, will you live up to one of your promises, in which you said, "We will target those most in need through shelter subsidies"? Does this apply to seniors and people on fixed incomes, among others, now living in the private sector when their rent exceeds the acceptable 30% of their total income? Will they be on a separate listing or will they be added to the public sector list which costs \$2.5 billion a year now? With a total of 1.5 million tenancies in the province, where will the money come from? Only the landlords



who receive the subsidies will come out ahead. You have used the Clayton-FRPO study which recommends subsidies and was financed by landlords through their organization, FRPO, to their advantage.

Using a round figure of \$16,000 for the poverty line in Windsor-Essex county, we find that a 30% acceptable housing cost works out to only \$4,800 a year. There are many people with incomes of \$1,000 a month or less, mainly single women and widows and some seniors. Their rents are hitting over 30% to 50% or even more. With a local public housing waiting list of two years and with a very uncertain future in the field of affordable housing, what happens now? Keep rent control.

In Scarsdale alone, an average 12 to 15 of the 48 units are rented by seniors. Several others are rented by fixed-income tenants. I haven't invaded their privacy, but I know a large percentage are paying more than 30% for their rent.

As an example, we submit the following chart of the recent rent history of the Scarsdale Apartments. That's on the last page. It is principally broken down since our present landlords took over on July 27, 1990. Since our rent change date is June 1, we used that date for the annual date. You will notice a very fair investment return based on the legal increases alone for the six-year period. The total is 34.8%, or \$198.75, for my two-bedroom apartment. In fact, an almost \$200 increase in rent for that period seems excessive.

Referring to figure 3 on page 16 in the discussion paper and also on the next page, you will see the smoothing out of the impact of inflation on rent increases, especially from the point of more active rent control in the 1980s and the passage of the rent control Bill 121 in 1991. The grid lines comparison is of the guideline and the consumer price index. Government must agree that rent control has proved effective, as you retained it for one sector of the rental market, the sitting tenants. Why don't you admit it is the best system and use it all the way? Keep rent control.

**Mr Hardeman:** Thank you very much for your presentation. I want to go to page 3, as you're suggesting we keep the registry. The landlords have made a number of presentations and they also have concerns about removing the registry because of the maximum rents, which they would lose under the removal of the registry of course; after the sitting tenant has left the apartment, the new tenant is no longer covered by the maximum rent. Do you have a concern about keeping that maximum rent in place, recognizing that the landlord who made a presentation a number of delegations ago pointed out that more than 50% of his renters in the city of Windsor were not at maximum rent now? Keeping the registry would provide them with the opportunity to raise that maximum rent at any time they saw fit.

**Mr Fraysure:** I would say what I say in my presentation. It has taken years to get this information, and what comparison figure are the tenants going to have if they move from one building to another? They have no idea. It could vary. They don't know how much was paid last year, the year before last, unless they have some kind of registry.

**Mr Hardeman:** But in the decontrol of the second tenant to a unit, the registry would be not needed because there was a negotiated rent, so what was paid last year may have been less or maybe —

**Mr Fraysure:** But in these negotiations, what's the tenant going to base his figures on? If that apartment is worth X number of dollars maximum rent today, then if he goes in tomorrow he has something, but if he goes in six months from now, he has no idea. He can be told anything.

**Mr Curling:** Thank you very much for your very concise presentation. You've covered many things that many tenants have come forward to say. The New Directions discussion paper is based on Lampert's report, a consultant they paid a lot of money to to tell them some of these things, and he says that even when rent control goes, they will not build; more has to be done before they start building.

There's one thing I've asked many of the landlords, and maybe you can help me on this one. It's said that close to \$10 billion worth of maintenance is needed to fix all these units around Ontario, but inside the guidelines all along a calculation was made for them to do that. Now they're asking for more. They're asking for all these things to come off before they can do that. I asked them what they have done with that money, \$10 billion. Do you have any comments on that, whether we should proceed in taking off rent control, proceed in making a long list of things that Lampert says they want so that new affordable units can be built? Do you think they will be built even if we do that one more time?

**Mr Fraysure:** I watched some of the Toronto TV and it seemed to me that they were asking for, as you say, the red carpet. They have had this much money. When the increase on my apartment went up \$200 in six years, where did that money go? There was a turnover of my apartment building in 1987, and in a period of 33 months, there were five different landlords. The price of the sales on the apartment building went up, on a million-dollar investment, approximately \$600,000 in those 33 months. Where did that money go?

**Mr Marchese:** Mr Fraysure, thank you very much. You made several comments I would like to touch on, but I may only be able to ask one. You've heard some of the government members say that the system is broken. You've heard some of the developers and landlords this morning say that the system is broken. They attribute that system breakage to rent control. They say that's what's caused all these problems. They talk about your not having to worry because the market will take care of you; it will find its equilibrium. You've heard some people say, "If you have annual increases from 4% to 10%, that's not so bad either, because you tenants will get a better building as a result of that through maintenance." Some landlords argue that we're not experts, so we can't even comment on this; only they can comment. Do you feel the system is broken in this way and we need to get rid of rent controls to protect you better?

**Mr Fraysure:** No. As I said in my presentation, several developers have said that rent control isn't the culprit; the culprit was taxation and other factors. Fix those factors, sure.



**Mr Marchese:** Do you agree with a proposal that the government might want to implement to make sure there are measures put in place so we know every cent they get in terms of annual increases, or beyond increases, that it gets spent on maintenance? Do you agree with something like that?

**Mr Fraysure:** I have said that over three different presentations. I've said it here, that there should be some proof.

**The Chair:** Thank you very much, Mr Fraysure. We appreciate your input here this afternoon.

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#### WINDSOR-ESSEX BILINGUAL LEGAL CLINIC

**The Chair:** Our next presenter is Patricia Broad from the Windsor-Essex Bilingual Legal Clinic. Good afternoon and welcome to our committee.

**Ms Patricia Broad:** Thank you for allowing us to contribute to this discussion. We base our submissions on the experience we've had with landlord and tenant matters.

The Windsor-Essex Bilingual Legal Clinic offers legal assistance to people in the Windsor area who meet our income criteria. While we assist many people with Workers' Compensation Board and social assistance matters, we also help people with their landlord and tenant matters. This provides firsthand experience with the dramatic effect that the Landlord and Tenant Act has on individuals in our society. As such, we have a direct interest in the discussion paper, Tenant Protection Legislation: New Directions for Discussion. It is our concern that if these proposals become legislation in their present form, we will lose affordable housing and more people will be on the streets.

It is clear that the tenant population is both sizeable and has certain distinct characteristics. I would draw your attention to the Globe and Mail report of Tuesday, August 20, 1996, which says, "About a third of Ontario's population, 3.3 million people, are tenants, and they pay \$10 billion a year in rent. Renters tend to be less affluent, with tenant households having an average household income of \$34,000 a year, compared with about \$60,000 a year for homeowners.... Normally, about 20% of units become vacant annually."

Although the discussion paper is entitled Tenant Protection Legislation, it proposes a measure which will result in a very unfair proposal against tenants. This measure is that the landlord will be able to negotiate any rent on a vacant apartment. This measure, in our submission, is completely unfair against the tenants. We find it unfair against the tenants as it will provide an incentive to evict existing tenants.

Landlords rent accommodations in order to secure a profit. Under this legislation, the best way to make a profit will be to evict existing tenants in order to rent out the premises for a higher rent. As such, it is clear that the government has created an incentive to evict existing tenants to get a higher rent.

In practice, unfortunately, it is fairly simple for a landlord to evict a tenant. They can harass tenants until the tenants cannot live in peace in the apartment, or they

can bring an application under the Landlord and Tenant Act under the provision that they want the premises for themselves or a relative. This is a very difficult application to counter and to prove that the landlord merely wants to evict the tenant. Once the landlord is successful and the tenant has left, the landlord can then rent the apartment to someone else at a higher rent.

Under these provisions, the evicted tenant must try to find a new apartment and try to bargain a rent for it, knowing she has a time limit to find an apartment and to move. The landlord can get a new tenant for a higher rent, basically any rent they can successfully negotiate and charge.

It is important to put this in the context of the fact that many tenants have found that their ability to bargain has been eroded. The idea that a landlord and tenant should be able to bargain for rent is a shift towards the free market concept. This concept supposes that it is fair to bargain because the bargaining parties are equal. However, a landlord and a tenant are not in equal positions to bargain over the rent. It would appear that although the discussion paper is called Tenant Protection Legislation, it is unaware of the reality facing tenants.

It has been noted that the government has not provided studies to explain why vacancies occur. We frequently have tenants phoning us and indicating that they're having difficulties paying their rent as a result of the general welfare cuts or because they are losing their jobs. They hope to move in order to find an apartment they can afford. Under the proposed legislation, this affordable housing will not be available to them. They will have to try to bargain a decent rent.

Tenants are not in a strong bargaining position. People move because they cannot afford the rent, because they have given 60 days' notice, because they have been evicted; as such, they are under considerable time pressure to find another apartment or they will find themselves on the streets. This will affect their ability to bargain effectively.

Further, general welfare cuts have contributed to the erosion of the bargaining ability of tenants. It is our submission that it is unfair of the government to then push them into situations where they will have to attempt to fend for themselves. Those who cannot fend for themselves will end up on the streets.

Unfortunately, while tenants may wish to bargain effectively for new apartments, they will not have the means to do so. Given the very low vacancy rates — I believe it's 0.8% in Toronto, 1.6% in Windsor — a landlord is in a very powerful bargaining position. The landlord will be faced with tenants who have to move in a specific period of time and who will have next to no choice but to take the rent as it is set. If they do not, the landlord is guaranteed that someone else will be interested in the apartment.

The government would have us believe that with these proposals being put into place, there will be more investment and this would lead to more apartments, and that should equalize the rents. It is our submission that there is no guarantee that this will be the result of this legislation. However, there is a certainty that it will be more difficult for tenants to find affordable housing.



We are also concerned with the proposal affecting the tenant's right to sublet an apartment. You probably know the proposal very well, that there should be a provision indicating that the landlord has the right to refuse a tenant's right to sublet an apartment. The Lampert report, released in the fall in 1995, estimates that 25% of tenants move every year and that over a five-year period 70% of tenants move at least once. In this economy, people need to be able to move in order to find jobs. A tenant must be able to leave an apartment easily to relocate.

The problem arises that when a tenant signs a one-year lease, the landlord can hold the tenant to this lease unless the tenant is able to sublet. This places the tenant in a very difficult position. Restrictions on a tenant's ability to move interfere with their mobility. It is our submission that it is unfair to restrict them in this manner.

Further, it's been our experience that it would be unnecessary to put this provision in the legislation. Landlords who are concerned about approval over a prospective subtenant can put this proposal in the lease themselves. To put it in the legislation itself is to significantly interfere with a tenant's mobility even if it's not important to a landlord.

We also read with interest the proposal concerning harassment. We applaud any protection for tenants from harassment. However, it is our submission that it would not stop a landlord from harassing tenants until they move. It is difficult for a tenant to protect himself or herself from harassment. Getting a right enforced is always a lengthy and difficult process. A landlord is likely to risk steps a tenant may take so that a landlord can take higher rent. It is our submission that if the government is truly committed to being fair to tenants, it will eliminate the incentive to evict, namely, decontrolled rent.

Our submission regarding rights to privacy is that, at minimum, they should stay as they are set out in the Landlord and Tenant Act.

We also read with interest the models proposed for dispute resolution. If the government should decide to move towards a model where landlord and tenant matters are decided by tribunals instead of courts, it must ensure that it is staffed by experts who are unbiased, otherwise there will be poorly made decisions and the courts will be flooded with judicial review applications.

Further, it is our submission that there must be a code of ethics to ensure that the public can expect a consistency of treatment from the decision-makers.

It is our submission that any proposed model should not restrict access to justice in any way. As such, we support a two-tier system with an unrestricted right of appeal.

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Further, there should be no application fees and no threat of an award of costs. Tenants need access to justice, and a financial barrier would be an unfair restriction.

Further, it seems reasonable that all landlord and tenant matters should be decided in one area in the interests of administrative efficiency and ease of access to all parties.

In conclusion, in his release called Rent Control Changes and You, the Honourable Al Leach states that he

hears from tenants about the problem of choice. However, the proposals reduce tenants' choices. While I'm not armed with statistics as some people have been, I do question whether or not being a landlord is truly unprofitable. I don't understand, if this is the case, why landlords aren't trying to sell their apartment buildings and why they aren't going bankrupt. The government has not provided information regarding these considerations.

It is our submission that the solution is not to decontrol the rent and force the tenant to pay. Without affordable housing we will find more people on the street. That's the conclusion of our submissions. Thank you.

**Mr Curling:** Thank you for your presentation. We hear very much what you and quite a few groups from across the province are saying. Maybe you could help us with this dilemma. We understand that women face the greatest struggle in the affordability sector, access to affordable housing. This is encouraged, it seems to me, or is being heightened by some actions taken by the government lately, like the reduction of 21.6% for welfare recipients' allowances. Of course more women are on welfare, therefore that need access to affordability is made greater.

The suggestion is that the rent registry would be eliminated, therefore shopping around would be completely gone and no one would have to drive around to find out where all this is and what kind of rates are on the units themselves. Women are also faced with the fact that they receive about 70% of what men earn in income. Is that what you see in your area, in some of the struggles that women have?

**Ms Broad:** Unfortunately yes, we see this again and again. We see many women tenants, single mothers on welfare with children, struggling to get by and they are very vulnerable people. They require a certain amount of security. If, unfortunately, something goes wrong and they have to move, under the proposed legislation they'll be in a very difficult position. It will be extremely difficult for them to go out in the time limits that are set by the legislation to find another place, to bargain effectively, hopefully in the same area so their children can go to the same schools. They have many other considerations that come into play because of their position. We see a lot of single women and older women.

**Mr Curling:** I don't want to cast a dark cloud on these New Directions. There must be some sort of glimmer of hope in this discussion paper. Is there any part of this paper where you would say to yourself, "Yes, the government with this discussion paper is moving in the right direction, and there seems to be some tenant protection aspect of this in New Directions"? Is there any part where you'd say, "Here's a direction they are going in that would be helpful to women"?

**Ms Broad:** It was encouraging to see a rent abatement for harassment. In my submission, this is a very good idea. I think it's also long overdue, because I believe it would be a disincentive to landlords to harass tenants. The provisions regarding harassment, for us, was a recognition that this is viewed as a problem. As I said, it's quite easy for a landlord to put a tenant in that position.



**Mr Marchese:** In your introduction you give some statistical information about renters. One piece of information we got is that a third of all tenants make less than \$23,000. That's quite significant. We heard a few landlords this morning. One of them proposed a 10% increase in the annual guideline and the other one thought it was a bit excessive and that perhaps 4% to 5% might be all right. Can you predict the effect that would have on the segment of the population I mentioned that you represent?

**Ms Broad:** Easily. The number of people who are tenants and who receive less than \$20,000, I would imagine a sizeable proportion of them are welfare recipients who are having a very difficult time right now even paying the rents they have. Many of them receive under \$500 a month and have to pay rents at around \$300 a month if they're very lucky and can find rents that cheap. They can't afford a rent increase and they're certainly not in a position where they can go out and bargain with someone who is in a better bargaining position than they are. I'm sorry. I don't mean to go on.

**Mr Marchese:** That's all right. I want to agree with you on a few points. Other than the landlords and the Tories, there seems to be a great deal of disagreement on some of these points. First of all, many have said what you said: that the bargaining position between landlord and tenant is unequal. Landlords almost get offended. One of them said: "How could you offend tenants this way? How could you say they're not able to?" and so on. But most of the people like yourself who have come in front of this committee have argued that there is no equal power.

On the issue of harassment, many have also mentioned that the onus is put on the individual to bring the complaint forward. For some people — seniors, vulnerable people, people with disabilities — it isn't that easy, and they've added that into the mix. In terms of the dispute resolution mechanism, many have argued that the system works well now. If you're going to have a different system in place, they've got to be experts and they've got to be unbiased; they certainly must not be political appointments in terms of that bias. Many have said what you've said, and I think there's consistency around those views. I thank you.

**The Chair:** Thank you, Mr Marchese.

**Ms Broad:** Sorry, could I just comment on one thing that Mr Marchese said?

**The Chair:** Unfortunately we've had to be very tough on the time frames, and his time was up.

**Ms Broad:** Okay, certainly.

**The Chair:** Maybe Mr Maves will let you do that on his time.

**Mr Maves:** I've got a quick question I've been trying to get through today. We've heard in a lot of places that property taxes on apartment buildings are much higher than they are on residential buildings. In Toronto it's four and half times higher. In some cases the property tax component is up to 40% of the cost of the rent. Do you know what the comparative numbers are in Windsor?

**Ms Broad:** For property taxes? I'm sorry, sir, I don't.

**Mr Maves:** No idea?

**Ms Broad:** No idea, sorry. It doesn't come up. My submissions are really based on what we see at the clinic on a daily basis.

**Mr Maves:** Another thing: Mr Marchese alluded to the gentleman talking about 10%, and at that point in time the gentleman had been talking about high-income people who were in very low rent units. It was an economic incentive for them to remain in those units. That's a problem I think we have: We can't get some of these high-income people out of low-rent units. Do you believe that high-income earners should have the same protection as low-income earners, or would you support a system that protected low-income earners and freed up spaces currently occupied by high-income earners?

**Ms Broad:** I see where you're coming from with that point. The only difficulty, I would say, with a system that could do that is that administratively it might be very difficult to put in force. I'm not sure how the government could do that. It would also interfere with a lot of principles that are currently in place. If it could be done I'd have to know about the way it would be done to make sure that's what is happening. If the end result is more housing for more people, that's always a very good goal. Certainly in the clinic system that's something we want to see. However, I wonder how you could put that across, put that into place.

**Mr Marchese:** With rent control. Just remove them.

**The Chair:** Thank you very much, Ms Broad. We appreciate your input this afternoon.

Is Kay Kavanaugh in the audience yet? No? We will take a recess. We're not sure that anybody is going to show up from Obulus Ltd, so unfortunately you're going to have to be available again in 20 minutes in case he does show up. We'll recess for 20 minutes.

*The committee recessed from 1520 to 1540.*

**The Chair:** Welcome back. In view of the fact that no one is here representing Obulus Ltd and they are our last presenter before our dinner recess, we will now recess until 5 pm.

*The committee recessed from 1541 to 1700.*

## WINDSOR ESSEX LOW INCOME FAMILIES TOGETHER

**The Chair:** Our first presenter this evening is Christine Wilson, representing the Windsor Essex Low Income Families Together group. Come forward and have a seat, please. The floor is yours.

**Miss Christine Wilson:** Our presentation isn't gigantic but we hope it's dramatic enough. I've also given copies of what I intend to say to you.

WELIFT is the Windsor Essex Low Income Families Together. We're a non-profit group run by and for low-income people. Our group was formed one year ago in response to government cutbacks. As there was no other voice for poor persons in Windsor and Essex county, we decided that it was necessary to find a way to band together for support, information-gathering, sharing and to present a face to poverty. We must speak for ourselves so that others can learn who we are, why we find ourselves in poverty, and most importantly, to allow the general public a chance to meet reality instead of statis-



tics. Statistics are very often misleading and can be manipulated to present a picture that may be the opposite of the truth.

WELIFT does not propose to present to you an eloquent prepared diatribe on the consultation paper on rent control. We are most confident that our fellow social justice advocates have expressed the pitfalls of this proposal. Instead we wish to offer you a view into the situations of persons living in poverty.

The current government slashed welfare by 21.6%. As you know, this means that tenants were slashed 21.6% of the income allotted to them for rental payments. In turn, you did not see landlords slash their rents. The rental difference had to be taken from food allowances. In reality, tenants found that their food allowance was actually slashed by 57.5%.

Across Ontario, many, many persons have been forced off of their disability pensions. Disabled persons have taken a more severe beating. The cut in allowances to them is a whopping 44.1%. The reality that these tenants found was that there was an actual cut of 79.5% of their food allowance — 79.5%. You did not see their landlords slash their rents either.

The decrease in social assistance shelter allowances is unrealistic. It is equally unrealistic to assume landlords will assist their tenants with rent reductions. Further, the lack of affordable housing in Windsor and Essex county is threatened by the government's desire to rid itself of public housing.

Families living on meagre paycheques or social assistance with two or more children are finding the less-than-1% vacancy rate does not provide sufficient safe, affordable housing. These families are forced to live in inadequate, unhealthy situations.

The lifting of rent controls will reduce affordable housing for the most vulnerable in our society. You cannot expect that a landlord will not desire to create more profit. While increasing one's income is not a crime, it is a moral crime for us to allow for an unmonitored rental market. An upward surge in rents will result in increased homelessness.

WELIFT is in dismay over cuts to housing information services. Services such as these offer a bridge between tenants and landlords. Information services of any kind have proven time and again to be of great value. Without information, one has very little power. It is important for you to know that persons living in poverty do not have access to newspapers advertising housing information. If people living in poverty must wait several days to view the copies at libraries, then you can be assured they will not be able to find the best properties at the lowest rents.

The increased strain upon legal assistance clinics due to appeals over welfare cuts will place a further burden on tenants who live in poverty and the clinics which attempt to assist them in landlord-tenant disputes. A strain has already been placed upon these clinics over the number of poor persons who have been forced out of their homes because of the cuts to social assistance benefits.

The members of WELIFT ask that you hear us today. We are the people who will be most affected by the decisions of this government. We feel that if any changes

take place, the government is responsible to assemble a committee that will be comprised of tenants, landlords, concerned citizens, representatives of legal clinics and representatives of the current rent control system. This committee can assess the current system, decide if any changes are necessary, work to seek solutions and offer recommendations to the government.

We feel that changes made without the intense scrutiny of the public is unfair. It is of importance to note that the poorest people in the province of Ontario do not have trust for a government that is allowing their children to go hungry and proposes to remove rent controls. Thank you for hearing us.

**The Vice-Chair (Mr Bart Maves):** Thank you very much for your presentation. We have a little better than four minutes per caucus for questions or comments, starting with Mr Marchese.

**Mr Marchese:** Welcome. We thank you for — I thank you at least — for bringing a human face to the people who are in a low-income kind of bracket. We tend to sometimes, governments, make decisions in the abstract and we forget what the implications might be for people who are usually at the bottom strata of society, for a variety of reasons. I always believed, in reading this proposal, that this would have a very dramatic effect on the working poor, on people on social assistance, people with disabilities, seniors, students and many other groups in society.

Did you get a chance to read the report, the draft proposal?

**Miss Wilson:** Yes, I did.

**Mr Marchese:** Because one of the stated aims of that report was to help tenants and to make sure that they weren't going to get any increases that obviously would hurt many people. Did you read anything in that report that you think might be helpful to any of you?

**Miss Wilson:** I think it can be viewed that way and it can be viewed in another way. I think there's too much fear in the way a lot of it is written up. A lot of it can be misinterpreted by people. So when I make this presentation, it's not just myself and what I've read. I'm presenting to you from the perspective of a lot of people, the members of our group, many of whom didn't understand the document at all. It doesn't make any sense to them. The greatest comment that they had was that there should be a committee together. That's why I stressed that at the end. A committee can help break things down.

Government often, even in a document like that, thinks that the document is worded so it can be understood by people. Our newspapers know that they have to publish newspapers at about the grade 5 level for the mass public to be able to understand what the article is about. So I think it's kind of unfair. There may be things I understand, but speaking for a lot of other people, I don't think a lot of people really understood there was anything there that's going to help them. It's too loose.

**Mr Marchese:** In fact, it's a very good point that you make because often we write reports and we assume that everybody either will read it, can read and will understand it. Then, if they don't respond, we blame them because we say it's been out for weeks, we've been having hearings, so presumably people should know. But



it's a very unfair assumption to be making of a lot of people. I think you make that clear on the second page where you say people either don't have access to newspapers or they don't read them, or can't, many of them.

**Miss Wilson:** Yes, that's a problem too. We have our immigrant community, our new immigrants, that don't understand the language. To get a lot of these things translated and understandable for that community is very difficult. We have a number of people in our group in that situation. They barely have a grasp of the language.

**Mr Marchese:** We're not going to get any translations from that side.

1710

**Mr John L. Parker (York East):** Thank you very much for your presentation here this afternoon. I appreciated your comment towards the end of your paper where you indicate, "We feel that changes made without the intense scrutiny of the public are unfair." I think that's a fair comment to make and it's a fair concern to raise.

In fairness to the government, I think that's what this committee hearing process is all about. This committee is in its third week of hearings right now and it's travelled the length and breadth of the province. It's spent some time in Toronto, it sat in Thunder Bay, in Sault Ste Marie, in Ottawa, Peterborough, Hamilton. We're now here in Windsor. We'll be here until after 8 o'clock this evening hearing from people such as yourself with comments on the minister's paper and on the rent control system in general. Tomorrow we'll be in London, the day after that we'll be in Kitchener.

I think the point of these hearings is to hear from people from all sides of the issue and to hear their comments and to hear their ideas. That is why I asked that I be put on this committee during the course of these hearings. I'm not normally a member of this committee but it was important to me that I participate in this process because I wanted to hear from people on the rent control system in this province and on the paper that the minister has put forward with his proposals.

I represent the riding of York East and I live in the riding of York East. That's a Toronto riding with a great number of tenants. I think many of the tenants in my riding have many of the same concerns that you've articulated in your paper. With a low vacancy rate, they're concerned. They're worried about where they're going to live. They feel they're trapped in their units because they have very few alternatives available to them as they look around.

Beyond that, they're also concerned about where they're going to live in the future and where their children are going to live in the future. As the population in Toronto in particular increases — and I don't know the situation in Windsor, but the population in Toronto is increasing dramatically just through natural growth and also as people move there from elsewhere in the province, elsewhere in the country and from around the world. A great number of people are moving to my riding and they're wondering where the housing will be for them into the future.

So I'm part of this committee process looking for answers to those questions, for solutions to those prob-

lems. I'm interested in your guidance, in your advice as to how best to address those challenges.

**Miss Wilson:** I think in the first place one of our concerns is that this is too much of a rush job. Like a lot of the other cuts that have taken place, we don't feel that enough consideration was given to things and more needs to be. We really do believe that there should be a committee that is comprised of landlords who have dealt with a lot of these problems themselves, a committee that's comprised of —

**Mr Parker:** I understand that. That's in your paper. But let's say we have that committee. What would your submission be to that committee?

**Miss Wilson:** Pardon me?

**Mr Parker:** I appreciate that point. You put that in the paper. That's the process, but what would your recommendations be as part of that process?

**Miss Wilson:** We would have to view the whole picture and then make the recommendations. I don't propose to make those recommendations at this point. But I think the committee should consist of landlords, tenants themselves, representatives from the legal clinics who have fought the landlord-tenant battles, who know at first hand from experience in their dealings what things have hindered them. I think we can all meet here and those of us who are more in the know in the community, who can find out about these things, who can find a way to these — I was fortunate that a couple of members of provincial Parliament called me to let me know that this was happening. Not everyone is that fortunate, so not enough people have been able to express themselves.

I think a committee comprised of members of provincial Parliament is nice and good and it's necessary too, but we still need a committee that is comprised of the people who are going to be affected on both sides, and we could get some more fair understanding — not just landlords, not just tenants, but the people that have been involved in the legal battles.

**Mr Parker:** Well, we've been hearing from all those people.

**Mr Curling:** Thank you for your presentation, and I think you're right. Let me follow through with what Mr Parker was saying, because as you said, it's a consultation paper, so it's a matter of discussion and we want to bring everything on the table. What they didn't tell you, though, which you do know, which you have pointed out, is that before that happened they cut 21.6% from the poorest people and said, "I want you to come and negotiate with us." Then what happened also is the rent registry, legal services, and all the funding to help people were also cut. They're saying, "See, we want to discuss this, we want to have consultation," but by the time the poorest of people come to the table, they're at a disadvantage.

What also happened is that they have not told you that they've had extensive discussions with landlords about what they see the situation to be, and the poorest of people, who are much more subjected to what the downfall would be because it's their home, were not consulted. They said, "No, we are consulting you now." So you see, it is very difficult to have a discussion when most of your powers have been taken away.



I'd like you to help me, because this is an extremely good paper — just explain to me. I know while you have 21.6% of income allotted to them for rental payments, they're using it for other things now. They had to then go and negotiate with their landlords. I saw you had here that food allowance was actually slashed by 57.5%. What do you mean by that?

**Miss Wilson:** That's the reality cuts. I didn't have time to photocopy this one; I wish I had. Before the cuts, we'll go with the example of the person on general welfare who was receiving a total of \$663. The rent was allotted at \$414. That left them a balance of \$249 for food and other needs. After the cuts they were reduced to \$520 a month, allotted \$325 for rent, and that left them supposedly with a balance of \$195 for food and other needs.

The majority of tenants were not able to secure this elusive housing at \$325. It doesn't exist. So then we're left with the reality of what these people are living in. They have not left those apartments at the \$414 rate. So now their cheque is \$520, the rent is still \$414, and they are left with a balance of \$106 for food and other needs. If you take those two, the \$249 they had previously and the actual \$106 they have now, you compare that, that's a difference of \$143, which works out to 57.5%. Their cut was only 21.6% across the board on their cheque, but as long as their rent remains the same — they're unable to find this \$325 apartment — they are living with a 57.5% cut. So it's a much more drastic cut than the picture that was given to the average citizen who believes it's just 21.6% of the food budget. That's just a single person.

**Mrs Pupatello:** Christine, I have a quick comment and a question maybe you can answer. Landlord groups who have appeared here today have said that they as a group should not be the ones who are subsidizing those who are the most in need, that if government is really going to help those who need the help, why are the landlords having to take that in terms of lack of profits, because they in fact are being more supportive than other citizens in helping the poor? That was put forward today by others.

They may or may not have a point there, but you mentioned landlords aren't going to slash the rents they are charging by 21.6% just because people had their rates slashed. So what do you think the answer is? The landlords personally shouldn't take the additional hit, and you mention that. How is the provincial government going to be responsible to ensure that everyone has affordable housing? Coming from Windsor, and this area has one of the highest low vacancy rates in Canada —

**The Chair:** Thank you very much, Mrs Pupatello. Unfortunately, there's no time left for the answer to that question. Thank you very much for coming forward this afternoon and giving us your input. We appreciate it.

1720

CANADIAN ASSOCIATION  
OF RETIRED PERSONS,  
WINDSOR-ESSEX COUNTY CHAPTER

**The Chair:** The next presenter is Bob Lesperance, chair of the Windsor-Essex county chapter of the Cana-

dian Association of Retired Persons. Good evening, sir. Welcome to our committee. The floor is yours.

**Mr Bob Lesperance:** Thank you very much. First of all, a little explanation. The Windsor-Essex county chapter of CARP has 4,876 members and spouses in Essex county, almost doubling the 2,800 that we had when we organized in 1994. We are included in about 151,000 members who live in Ontario and about 230,000 members across Canada. We're a non-profit organization, getting no money from any government, any party. We subsidize ourselves internally. We hope this makes us independent. We hope it makes us impartial.

Approximately 20% of our members are renters in Ontario, and they spend about 25% of their income on paying rent. The percentage of our members who are renters is slightly higher — I'm sorry; that was 20% of Ontario seniors — than the 16.5% of the total 1.3 million renter households in Ontario.

Since I'm only allowed 20 minutes, my presentation is slightly longer, so I'm going to zip through a couple of points. But I understand you all have a copy.

Some general observations: In general, we support the broad objectives of New Directions and the proposed tenant protection legislation to expand rental property stock. The lack of rental accommodation has led to a reduction in units with corresponding overvalued rents in some properties. If more apartments are built, tenants will have more choice at different levels, which they do not always have today. You heard the rental rates in this area are fairly low.

We also believe a fair balance has to be struck between the rights and goals of the landlords and the rights and needs of the tenants. In fact, in real life today it's no fun being a landlord and it's no fun being a tenant. That's a real-life fact. For example, both landlords and tenants have reciprocal responsibilities such that if the tenants do not get proper service, landlords do not receive the required rents. Similarly, both landlords and tenants have a responsibility to properly maintain the property which the one owns and the other rents. Landlords deserve a reasonable return on their investment, while tenants deserve to pay fair and not exorbitant rents.

In CARP's view, the government's role in this relationship is to assist in developing an environment in which the necessary balance between the landlords and the tenants can be maintained. This is the position we think the government should be in.

The New Directions discussion paper is only a start in the review of rent control. I'll add to it here. Unfortunately, we think most of it's already gone, but we think it should be a start. Not being accompanied by concrete legislation, it is somewhat difficult to provide useful input to the proposals. Nevertheless, the general principles underlying the proposed change of direction for the rent control policy in Ontario raise some very serious concerns. Changes introduced should be eased in rather than introduced quickly. A lot of seniors particularly are still shell-shocked at some of the changes.

Some general observations on the stated goals for a new tenant protection system:

The proposals actually focus on units rather than tenants, despite what is being said.



Under the current rent control system, new buildings are exempt. However, that exemption has not increased the building of new rental properties. We haven't seen a lot of new rental properties going up.

Removal of rent control by itself will not stimulate the building of new rental properties. Other complementary actions will also have to be taken, such as shifting or reducing the so-called soft or hidden costs, things that are necessary in a community — the schools, libraries, roads etc — for building new rental properties paid by developers or reclassifying rental properties from their current status of commercial properties. Either of these changes will impact adversely on the tax base of municipalities by shifting costs from the developer to the municipality, principally the homeowning taxpayer, and reducing the tax base of the municipalities.

As well, because of the long-term nature of the investments, banks have to be persuaded to loan funds to developers. For this exercise, I tried to borrow money to buy an eight-unit. The payback time was 15 years. They wanted no part of it, yet my personal credit record is very good. They don't loan on that, period. That was the end of it.

The tax rate for apartment buildings should be reviewed, perhaps to develop a new blended property tax formula. I have difficulty with this because I'm a taxpayer and I see a blended one as moving the tax burden from one group to another group. Nevertheless, it's something that could be looked at, for example, where the building is situated at commercial rates and the tenant units at residential rates. That is something that could be looked at.

Cost-efficient administration and reduction of red tape should not be introduced at the expense of the reduction of municipal approvals. Landlords should not be permitted to demolish, make major renovations or convert their property without municipal approval any more than a house owner can do. If they're meeting the zoning bylaws, they can do whatever they wish. They can do that today. But if they don't, the changes that are being proposed should not override the local municipality's power to do that.

While landlords have the right to their property and to realize a reasonable profit from their investment, the right is tempered, as an earlier presenter indicated, by a social duty to the municipality or society in which their property is located and to their tenants.

Protection from unfair rent increases: It must not be forgotten that over the past five years, 1992 to 1996, under the current rent control system, rent increased by a cumulative 11.5%. CARP is concerned that increases factoring in "extraordinary operating costs" will not be capped, especially after rents have been allowed to float. This could lead to excessively unfair rent increases. If the market will bear it, there will be excess ones. If the market won't bear it, that won't happen.

Harassment, if proven, and reduced extraordinary operating costs by a landlord should be added to the tenant's grounds for rent reduction; in other words, an abatement. There's not much there now for that.

The goal of simplifying administration should not override the right of fairness or the right of tenants to

know why their rents have increased. In claims by landlords to increase the rents of sitting tenants, landlords should still include costs no longer borne in calculations for capital expenditures, operating cost information, with subsequent notices of rent increases after an above-guideline increase has been approved. In other words, you've got to give details to your tenants. Decision-makers must continue to supply written explanation for every rent control decision increase issued.

The voluntary nature of any agreement entered into by tenants to pay for capital improvements or a new service must be put in writing to ensure no undue harassment or pressure has been put on the tenant. As we get older, with some of our memories, we think what it should be, not what it really is. That should always be in writing.

The rent registry should not be abolished since it provides necessary information both for tenants about prospective landlords and for landlords about prospective tenants, and ensures equality in the system.

Other issues to be discussed, and which I think need a lot of discussion: Should there be no eligibility test for capital expenditures? An example we hear in the rumour mill is that a building in Toronto needed new door-sills. They put in solid marble. They were allowed under the rent control to increase it. The kickback came in through the back door for the price to the builder. Unusual, maybe, but it does get around.

Reduction for inadequate maintenance and withdrawal of services should be based on the length of time between a documented complaint by the tenant to the landlord or the Ministry of Housing or its representative and compliance by the landlord, if merited.

Maintenance: CARP agrees with the proposal of charging landlords with violating property standards as well as providing informal notice before issuing a work order. On the other hand, landlords should have recourse to compensation if a tenant does not take proper care of his or her rented unit. They are limited by many laws as to just how much and what they can do.

If a municipality does not enforce its property standards bylaws, the province should have the power of inspection for compliance. It should also be able to publicize its actions and the reasons for them.

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General provincial and municipal property standards should be made known to the landlords and tenants and reviewed every five years, especially in regard to fire prevention.

Landlords should be informed of tenant-initiated inspections but the confidentiality of the tenants who inspired this inspection must be maintained. Moreover, there is no need to inform the mortgage holder — the people usually in our case are out of town — of any actions taken against the landlord on an individual basis.

The Landlord and Tenant Act: The big concern we have is harassment since seniors who rent tend to live in their rented unit for a long time and because of their age they are particularly vulnerable to harassment and require special protection. Details on the anti-harassment process are lacking in this document — didn't find much in there — and need more specifics on where it's going.



Access to the anti-harassment process must be simple and broadly available throughout the province. Tenants should not have to pay application fees for access to the anti-harassment process nor should they have to pay fees for legal representation at any hearings. To charge them reduces accessibility, especially for those below the poverty cutoff, whether seniors or not, and seniors on fixed incomes.

Those who lay complaints of harassment need absolute guarantees of protection during all phases of the process: the laying of the complaint, remaining in the rental unit until the complaint is heard, while the complaint is being heard, after a decision is rendered, especially if the decision is in favour of the complainant, as does the landlord need protection, especially if the complaint against him or her is absolved. On the other hand, if the complaint is found to be frivolous by either side, a determinant should be developed, for example, a fine or a legal charge should be assessed.

Other issues for discussion: Interest on the last month's rent should be 0.05% above prime at the time of the deposit. During disputes, rent should be held by the tribunal in escrow until the dispute is resolved.

Tenants must allow landlords to have access to apartments in case of emergencies and for repairs with 24 hours' notice.

The dispute resolution system: CARP suggests the introduction of a new dispute resolution system independent of the courts. We understand that the landlord-tenant court Ontario division is currently backlogged and that sufficiently trained mediators or enforcement personnel may not be available since those who are available have expertise in other areas such as human rights or employment standards. Outsourcing for personnel will add additional cost and could be seen as lacking impartiality.

CARP suggests that retired judges and lawyers should be hired on a reasonable per diem to serve as mediators. Training would be minimal and their impartiality above reproach. CARP has offered to assist in implementing a search for these people among our membership and among retired seniors in general. We believe that the prospective mediators should have to go through an objective selection process, for example, interviewed and assessed by government human resources personnel in the Ministry of Municipal Affairs and Housing, and appointed by an order in council, subject to approval by the Lieutenant Governor, to signal the seriousness which the government attributes to their role. Of course, sufficient funding and staff should be allocated to the new system to ensure an efficient and expeditious operation.

In regard to appeals, CARP favours a two-tiered internal system to avoid burdening the already heavily loaded court system.

CARP also feels that the mediator should have the power to award judgements, thereby eliminating the role of the registrar. Employing retired judges as well as elevating their appointment to a high status will help ensure the capabilities of the mediators to render a judgement.

Public access and efficiency: CARP supports the idea of having a landlord-tenant system serviced by the rent control offices, which should be expanded in number if

necessary to ensure wide and easy access across the province. Incorporating the rent control office with other government offices is a good idea.

CARP, however, is opposed to imposing any application fees because it will raise a barrier for seniors, especially seniors on low or fixed incomes. Indeed, imposing application fees on anyone, regardless of age, should be considered only after the new system has been in operation for at least a year and has banked experience to determine the nature of the applications. In fact, CARP would expect the entire system would be reviewed after the first year of operation. CARP also recommends that seniors should not have to pay for any legal representation they might require in the new system.

Security of tenure and conversions: If conversion could offer affordable ownership opportunities to tenants, then they would not be tenants in the first place. Conversion enables landlords to dispose of their property as they wish and is of limited benefit to the tenants.

Any changes to density of rental buildings should remain the responsibility of municipalities, not the province. Furthermore, demolition, major renovations and conversions of the rental buildings to condominiums or cooperatives must continue to require municipal approval and conform to municipal standards to avoid unchecked urban sprawl and other possible urban blights that would not affect or concern those not living or paying taxes in the municipality. To take this right out of the control of municipalities is anti-democratic.

Other issues for discussion: CARP believes that approval from tenants should be required for conversions, demolitions or renovations. However, sitting tenants should have the right of first refusal if their unit is converted to a cooperative or condominium within at least three months of receiving notice of the conversion.

Sitting tenants in a unit that will be demolished, renovated or converted must be protected by being compensated for the loss of their unit, because if they are being forced by the action of the landlord to move from a rent-controlled unit to a unit which is not under rent control, their rent will increase. The amount of compensation should be no less than one and a half times their current rent for no less than three months. This amount will enable them to adjust to the increased rent over a reasonable time.

Care homes: I think the paper is lacking in any care home management or control whatsoever. I happen to be involved. I'm at the age where I'm in between parents and children and grandchildren. Care homes are night and day from a registered nursing home. I've got a lot of information and details on care homes, and it takes up most of the balance of my presentation. So to leave a little time for questions, I'll end up saying that home care owners must obtain municipal permits before they can convert, renovate or demolish their facility. If their request is approved by the appropriate municipal agency, the home care owner must find alternative, comparable accommodations for residents. If the rental fee and other costs have to increase, then the home care owner must pay the resident the equivalent of one and a half times the resident's costs at the owner's facility for three months. On the other hand, the tenant must provide



proper notice of termination of residency or be held responsible for one month's rent.

Like the owners of any rental unit, owners of home care facilities have the right to their property and to earn a reasonable return from their investment. But that private right must be tempered by a larger social responsibility for the good of the owner, resident and community.

I get too involved and too stirred up, so I've given you the written part on the care home. I'm open for questions, Mr Chairman.

**The Chair:** Basically, sir, there are only a couple of minutes left, so it's not an effective time to entertain any questions. Did you want to make a closing comment?

**Mr Lesperance:** Yes. I personally rented only a very short time when I first started out in life as a young man, so I had to do a lot of research from the other side, from I guess you would call it the owner's side, if we have such a thing as a true owner, because they're usually absentee investors on the rental side. It's a business that no one likes to see changes in. Quite frankly, my biggest feedback has been that the way the changes are coming, bang, bang, bang, they'd be much happier with no changes. They're learning to live with it. They don't like it. Things such as the government cuts to low-income people now complicate it. We heard earlier what happens.

The one situation we can't take by itself is the rental market. Other things are clearly making this a problem. If you could keep them separate, the rental business, as a tenant and as a landlord, is not too bad by itself. But in view of other changes that have come in, particularly the cuts to the welfare and the low-income people, it is causing problems in this area as well as others. I feel that's a crime, but I don't know what I can do about it.

**The Chair:** Thank you very much. We appreciate your input here today, sir.

1740

TIM FUERTH

**The Chair:** Our next presenter is Tim Fuerth, presenting on behalf of Bill Taylor, who, due to illness, was not able to be with us today. Questions, should you allow time for them, Mr Fuerth, would begin with the government. So the floor is yours.

**Mr Fuerth:** Thank you again for the opportunity to address the committee on the impending legislation. Certainly I've had the advantage of sitting in the room where some of the other presentations have been made, so before I address some of the things I'd like to raise, I'd like to comment on some of the suggestions.

We heard previously that when the shelter allowances were cut some 20% or 21%, there were no landlords slashing their rents. I think it's fair to say, on behalf of a landlord, that our mortgage company wasn't coming suggesting we slash our interest rate, the city wasn't suggesting we slash our property tax payments; the whole list goes on. I won't bore you with the detail. But the reality is that those costs the landlord was incurring continue to be incurred at that same level; in fact they're probably higher costs because there's a greater risk of uncollection on rents.

The other comment is that I seem to hear from some groups that landlords have been raping and pillaging the

tenant groups with exorbitantly high rents and not putting the money back into their buildings. As someone who is certainly intimately familiar with our Windsor rental market, I'd like those same people to explain the, I would guess just on a quick count, at least 1,000 units in the city over the past three years that have been lost by the owners of those properties either through power-of-sale or foreclosure proceedings because they couldn't make the bills.

I'd also like those same parties to explain why there's a long, long list of rental properties in the city where the property taxes are in arrears. Obviously those landlords haven't been making exorbitant — we've heard the number 10% — profits on their return on investment when many of them are losing their properties to the banks, and invariably it's going to continue under the current system.

Having said that, I learned a lesson in my earlier comment. I'd left too long for questions, so I'm going to talk a lot this time. There's been a lot of rhetoric floating around the room from the various sides, and I guess all of it is actually pretty common, it's old rhetoric, and frankly it's maybe a little bit stale. What I'd like to do is spend the next few minutes addressing some suggestions. I did include a submission earlier in the day.

Certainly in Windsor, and that's the municipal area where we operate our apartments, we're owner operators, we're not absent owner operators. We take pride in our buildings and the tenants that occupy them. When we look at the issue — and it seems to me the issue is making the rent affordable — there are a couple of suggestions that I would make, certainly and particularly in Windsor, that would go a long way towards that.

The first one — and I missed the section earlier; someone mentioned property taxes. I'd like to tailor it to the Windsor scenario. In Windsor we have the benefit of market value assessment, which is unlike the GTA, where there are some huge property tax discrepancies. We're on a 1984 base year for property taxes. Unfortunately, what happens is that the municipality in Windsor — and for the life of me, I can't understand why the tenant groups aren't screaming bloody murder, because they're the ones that are being really raped — the city sets its class factor. I've submitted the calculations in my brief to make it clear. Nuts and bolts of it: When you determine the property tax liability of a house or apartment, you take the 1984 market value, the fair market value in 1984 —

**Mrs Pupatello:** Can I interrupt just for a moment? Which brief are you referring to?

**Mr Fuerth:** The Danzig brief.

**Mrs Pupatello:** So are you reviewing the submission you made earlier or are you speaking —

**Mr Fuerth:** What I'm doing is —

**The Chair:** Mrs Pupatello, Mr Fuerth has the floor.

**Mr Fuerth:** I'm addressing some of the solutions that I think would be of benefit to both landlords —

**Mrs Pupatello:** But he's representing someone else, Jack.

**The Chair:** Mr Fuerth has the floor.

**Mr Fuerth:** If you'd like, I won't refer to the brief but I'll just summarize my comments. In Windsor property taxes are assessed on a house or an apartment by the



following formula: The property tax is equal to the 1984 market value times a class factor times the mill rate. The mill rate for apartments and houses is exactly the same. The 1984 market values were derived based on the market values. The problem is the class factor. If you have a property that has six or fewer rental units, which would include condominiums, which would include single-family housing etc, the class factor is 17.5% times that market value to arrive at assessed value.

When we look at apartments, the class factor for an apartment structure with greater than six units is 35.5%. It doesn't take a genius to figure out that those tenants, if they're in a building that let's say for discussion purposes was worth \$500,000 in 1984, they're paying twice as much in property taxes as a homeowner who owned a property in 1984 of an equivalent value who just happened to have less than six units, perhaps one, perhaps three. But it's unmistakable that there's a very clear bias in the level of taxation for tenants. As I say, for the life of me I can't understand why the tenants, particularly in the city of Windsor, haven't really been focusing on this, because it really is them that are paying those property taxes.

To make matters worse, what really happens is that the tenants get fewer services for their property tax dollars. They're paying twice as much in property taxes, but the city doesn't pick up refuse from the building, which they do from a house, as an example. There are a number of other services that tenants don't have available to them that houses do. That would certainly be a suggestion. I'm trying to be helpful in terms of how you get those rents down and make them affordable. There's a very clear bias.

I've also indicated in my submission, and I apologize for referring to it, that subsection 60(4) in the Assessment Act, which deals with condominium conversions, should be repealed. We had quite an interesting situation where we converted a building back in the early 1990s and we had identical units right beside each other. If someone bought the unit, they were paying approximately 70% lower taxes than the unit right next door which happened to be rented by a tenant. There's a real inequity, and this section of the Assessment Act prohibits that adjustment to property tax amounts.

The second item, and you probably haven't heard this before, but certainly we see it fairly frequently: When you really boil down the cost of an apartment building, 20%, at least in the city of Windsor, goes to property taxes and roughly 20% to 25% goes to pay the utility bills, so you have to concentrate on those big-ticket items. How do you get those costs down?

There have been studies done by Ontario Hydro that when you take a rental structure that's bulk-metered, one meter for the building, and meter the units individually and have tenants pay their electrical consumption, the consumption in that building is going to drop anywhere from 20% to 30%. You don't have to take my word for it. Those are Ontario Hydro statistics. The technology is readily available where meters can be installed on existing electrical panels so it doesn't involve rewiring buildings. It's a simple digital meter that gets into the electrical panels. The local utility would have the advan-

tage that they can actually dial into these digital readouts by modem, so they can issue their property tax bills without any meter reader ever setting foot in the building.

I think it's fair to say that tenants would certainly save some money under that scenario because at least they're getting those electrical costs, which are included in their rent under a bulk meter system, significantly reduced. It's pretty hard to argue with the premise that you should pay for your electrical consumption.

Under the current scenario I'm sure we've all seen apartment buildings with their windows wide open in the middle of winter. Invariably, if you go into those units, the heaters are blasting and the tenants have the windows wide open to get fresh air. I don't have a problem with that as long as the tenant wants to pay for that electrical consumption rather than the rest of the tenants paying for it.

Those are a couple of comments I have in terms of how you can take a reasonable step in terms of reducing rental levels.

Landlords, we have to remember, aren't getting those property taxes and sticking that money in their pockets; landlords aren't taking the money for utilities they're collecting in their rents and sticking it in their pockets. Invariably it's all going out somewhere. The real trick is to figure out ways to get those costs down.

With respect to the electrical metering, we would support Ontario Hydro's taking a lead role in terms of this type of retrofitting of buildings. The cost runs around \$300 a unit, depending on the size of the structure, which obviously Ontario Hydro is well suited to do, and it will also serve their purpose because it will reduce the amount of electrical consumption. As I said, their own numbers say that it would be a 20% to 30% reduction, and there have been conversions of this type that prove it out. It's not theoretical; it's actual fact that experience has shown that's what the reduction is.

Those are a couple of items. Rather than talk about rhetoric, I thought it might be more useful and perhaps appropriate to address some ways by which those rents could be reduced to make them more affordable for tenants.

At this point I have to commend the current government for taking the initiative. When you look at a situation where there are 3.5 million tenants in Ontario and there are roughly I believe 130,000 or 140,000 landlords, it would be very easily and politically prudent for a party in power to sweep this problem under the carpet, and that's really what's happened under the last two administrations we've had in this province. The problem has been there. It's there today. It has been swept under the carpet because politically it was imprudent to deal with it. I must commend this government for at least dealing with it, particularly when you recognize that there are 3.5 million tenants who vote and there are only 140,000 landlords. It's not a fun thing to do, it's not a winning proposition for any party that's in power, and I think it should be commended for taking that step.

That also goes without saying with respect to the property tax reforms that are being proposed. That again is very difficult to deal with. A lot of property owners are going to be adversely affected, but the government is at



least on track to do the right thing, to do the thing that's fair, to do the thing that's equitable and to do it quickly.

Having said that, I would like to address some specifics in the discussion paper.

**Mrs Pupatello:** Which paper is that?

**Mr Fuerth:** New Directions for Discussion, that discussion paper.

**Mr Marchese:** The landlords' paper?

**Mr Fuerth:** No. The discussion paper.

**Mrs Pupatello:** The Danzig paper?

**Mr Fuerth:** No. The discussion paper.

In any event, we make a number of suggestions, and some of them are not necessarily significant. Certainly with the aging population — we heard about Dr Foot's book earlier — there's a renewed and growing emphasis on security in these rental structures. The problem is, as we see it now, where landlords aren't able to request refundable — I emphasize "refundable" — key deposits, most landlords aren't in a position to invest in some of the really good systems that are out there, the card access system, the non-duplicating key systems, because there's a much greater cost to those systems, and as tenants leave and don't turn in those access cards or those non-duplicating keys, that landlord has not just increased the security but also his costs in the process. I think that reasonably what should be provided for is a refundable deposit based on actual cost. What's imprudent about that?

There was some discussion about the interest rate on the last month's rent deposit. My view is that it should be somewhere in the neighbourhood of 2% to 3%. Certainly 6% was appropriate at a time when it was first set, when you could earn that rate of return on a bank account. Today, in most cases, you cannot earn 1% rate of return on a bank account. You also have to take into account the fact that in addition to the lower level of interest rates generally, many of those tenants are receiving that interest tax-free. They are not paying tax on that interest. It goes without saying that to put them on the basis as though they had invested the funds, a lower interest rate would be supported.

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In terms of the proposals, we support the proposition, as I mentioned earlier, that the rent reduction for extraordinary reduction in utilities — operating costs, specifically utilities — be deleted because it has impeded property owners from making those investments. They make the investments and tenants get the benefit and there's no point for the property owner to make those investments.

With respect to inadequate maintenance, our view is that the tenant obviously has a right to quality accommodation and the landlord has an obligation to maintain those facilities. Tenants should have that right, which they have in law, but they should be making applications for rent reductions or abatement for inadequate maintenance through Small Claims Court, for two reasons: One, they're very impartial, which in our experience some rent control hearings haven't been; but more important, we find that the vast majority of inadequate maintenance applications that we face — we have several hundred apartments, so we've seen it all — in most cases the

person who makes the application never attends the hearing; in most cases the person didn't have any evidence that there was inadequate maintenance; even worse, in most cases they admit at the hearing that they had never told the landlord prior to making the application.

Here we have the ministry staff running around, processing all these applications. If someone contacted the landlord and said, "Jeez, this tenant gave me this application. What do you have to say about it?" the landlord could at least present an unbiased, or perhaps biased but at least a balanced approach to the situation rather than the ministry staff spending a lot of time on these applications which invariably never result in rent decreases or reductions. That's certainly been our experience.

We had a very substantial one recently where a portion of bricks fell off a building and we ended up reworking the whole building. There was one application. The rent officer added every tenant in the building, and when we had the hearing, which was set for three days in Windsor, the rent officer showed up, we showed up, one tenant — not the tenant who made the application — showed up in support of the application and four tenants arrived supporting the landlord; they were so appreciative that the landlord invested the money in the building for their benefit without, by the way, seeking an above-guideline rent increase.

We hear a lot of these horror stories, and if they had to file in Small Claims Court, perhaps had to pay a fee, whether it's a fee to the Ministry of Housing or an application fee in Small Claims Court, at least there would be some requirement on their part to put forward an amount of money rather than it being a free service. If you want to harass your landlord, make a rent reduction application; it costs you nothing and your landlord is going to go through all kinds of hoops to defend it. In the particular case I mentioned we had to get engineers to come to the hearing, and after nobody showed up, the rent officer decided there was really no purpose in doing that, but unfortunately we incurred a great deal of cost in preparing for the hearing.

If the ministry or some arm of the ministry is allowed to continue to hear these applications, our view is that they should, as a matter of (1) courtesy, and (2) prudence, contact the landlord and explain the circumstances in the application. The landlord may very well say, "You're right, the ceiling was falling down, but for this and this reason we couldn't do it right away but we've got it on the slate to do it in two weeks," or the landlord may say, "Jeez, that's funny, I've never heard anything from the tenant." Before we start the bureaucratic wheels turning for processing these applications, at least give the ministry an opportunity to determine whether on a first look it makes any sense.

The rent registry, I believe, should be continued, as I set out earlier. A number of landlords in the late 1980s made substantial investments in their buildings, and those investments resulted in increases in rent, which were approved by the Ministry of Housing. The proposition that the rent registry would be abolished or eliminated would penalize those landlords that spent the money on their buildings and reward the people who didn't spend



money on the buildings, because over the years they still got the rents at the same level without making the investment in their structures for the benefit of the tenants.

One of the most difficult problems we have in enforcing rent collections in applications to the courts is that the courts don't enforce a provision in the Landlord and Tenant Act which requires the tenant who disputes an eviction for non-payment of rent to pay the moneys in court. I've never, in the years of experience I've had in this sector, seen any judge actually require that, notwithstanding the fact that it's required, and we believe that those types of statutes are there already. They are just not being enforced. We think that through the Ministry of Attorney General that should be changed so that those provisions in the act are enforced the way that they are written. If what is written in the act is wrong, then change the act, but certainly it's in the act now, and the jurisdiction, the legal courts, should be enforcing that.

I'm just about out of time and I'm sure there are a couple of people who want to ask me some burning questions. I will end my presentation at this point and again thank the committee. I'm sure it's been arduous for you over the past three weeks, travelling the province. I think it's important that you make a prudent and prompt decision on this matter.

**Mr Harry Danford (Hastings-Peterborough):** I'll try and be brief so you will have time to answer the question. You mentioned the tax rate and how it affects apartment buildings and that the market value here in Windsor is a 2-to-1 ratio, and in some other centres we've heard it's 4 to 1 or whatever. How much of an effect or an impact would that have on the trade? It all boils down to the tenants being the ones paying and that's the bottom line and the effect is on them. How much of a difference in impact would there be in relief if you were to update present accommodations or even stimulate new development? Can you give me a brief answer?

**Mr Fuerth:** I think it would have two significant impacts: One, it would reduce rents, because for those units where tenants are paying \$1,300 or \$1,500 — most tenants haven't got a clue how much tax they're paying — it would automatically cut the tax in half. Inherently that means there is room for rents to be reduced. Two, as far as new construction, it makes it more affordable. You have more people, a greater segment of the population, who can afford your product or service, so that should stimulate demand, thus stimulating construction.

**Mrs Pupatello:** Who were you speaking on behalf of just now? Who is Bill Taylor?

**Mr Fuerth:** He is a gentleman who owns some rental properties.

**Mrs Pupatello:** But all the "we" and "our" just now were referring to Danzig?

**Mr Fuerth:** No, "we" as us in terms of our discussion paper.

**Mrs Pupatello:** You, including Bill Taylor?

**Mr Fuerth:** Yes. You'll notice I also have a time later on in the agenda that I have agreed to relinquish.

**Mrs Pupatello:** So you're going to appear three times?

**Mr Fuerth:** No. I've agreed to relinquish that time.

**Mrs Pupatello:** How kind of you. With all the trouble you have in your business, how do you make any money, or why do you stay in the business you're in?

**Mr Fuerth:** The problem is that it's pretty hard to pick up our apartment buildings and move them across the river or to a different jurisdiction where the rules are a little more favourable. We're here because we have buildings that are situated here and you can't move them.

**Mrs Pupatello:** But you obviously make money.

**Mr Marchese:** That presumably would be the case with a lot of other landlords in terms of being in the same situation.

**Mr Fuerth:** That's correct.

**Mr Marchese:** You mentioned something in the beginning of your discussion about hearing a lot of rhetoric, or you said much of it is rhetoric. Can you remind me what the rhetoric is, whoever said whatever is rhetorical?

**Mr Fuerth:** The rhetoric, for instance, that a comment was made earlier that we're going to have a housing crisis in four years. The reality is that we've had it for years, at least in Windsor, and that's obviously what I'm most familiar with. That, to me, is rhetoric. It's making broad statements to support a particular point of view, as an example.

**Mr Marchese:** Do you see the private sector building in the next little while or so?

**Mr Fuerth:** I think it's fair to say that the private sector will not be building until the contents of the new tenant legislation comes forward.

**Mr Marchese:** Do you see the government building?

**The Chair:** Thank you, Mr Marchese. Thank you, Mr Fuerth. We appreciate your input here this evening.

Is Mary Godwin here? Obviously you're not Mary.

1800

#### GREATER WINDSOR HOME BUILDERS ASSOCIATION

**The Chair:** Next, the representative for the Greater Windsor Home Builders Association, Mr Schepers. Welcome to our committee, sir. You have 20 minutes.

**Mr Albert Schepers:** I don't think I'll take 20 minutes. I suspect that you've probably heard much of what I have to say. I'm Albert Schepers. I'm the past president of the Greater Windsor Home Builders Association and I sit on the technical committee for the Greater Windsor and the Ontario Home Builders Association. Rather than go into all the information that you've probably heard in other areas from the Ontario Home Builders Association, because it's the same thing, our position is that rent controls really don't work, and something else has to be found.

The proposed legislation is a step in the right direction, and I think Windsor probably is a good example of where things are happening at this stage of the game. At least in Windsor we're having some houses being built. Some of those houses are being taken over by people who are in apartment buildings, but it's not enough. We need more apartments being built and plain and simple is that people have stopped building apartment buildings because they can't make money at it. If the government wants to do it,



can try and make money at it, that's fine, but I think we've got the experience that way in what's happening, and I think what we have to do is find another solution. Perhaps one solution is that instead of rent controls there should be a rent subsidy for people who need it, but something needs to be done.

The problem right now is that the rent controls are based on the assumption that all the tenants are essentially crooks, and I don't think that's the case. There are some unscrupulous landlords, as well, but I think in fairness they're not all unscrupulous and there are probably are just as many unscrupulous tenants as there are landlords. That's the long and the short of it.

I think really what we need to do is assess what the legislation has done, whether there has been a benefit to the community as a whole, to the province of Ontario, with the current legislation, and then let's make changes to it so that we see a benefit in Ontario to both tenants and landlords. I think there has to be a fairness on both sides.

**The Chair:** We've got a fair bit of time per caucus for questions, about six minutes, beginning with Mr Curling.

**Mr Curling:** Thank you for your presentation. Yes, I presume you have spared us the same thing that home builders associations have been telling us. I don't think you've spared us anyhow, because I think that Windsor is very important. The kind of development that you are doing here is just as important as in Toronto or in Thunder Bay. One of the things I've been asking too, and I hope you can give me an answer to all of this, is the state of the stock that we have now in rental property, because it's been in terrible disrepair. It's been awful. There's about \$10 billion worth of repairs to be done to it.

You said that rent control does not work. When I hear that, I leave it hanging because it has been a great profit to the landlords — great profit. As a matter of fact, it guarantees a return on their investment — guaranteed — to the point that they even have a legal maximum rent which they can't even offer because the market is saying to them, "You're ahead of me," and the market rent is much lower. But again the stock continued to be in terrible disrepair.

The whole aspect of this is that that money has already been given to the landlords to repair those buildings and now they're saying, "Take this away so we can repair the buildings." What happened to that \$10 billion that was given to the landlords to do the repairs, because I haven't gotten an answer all over the province that I've been trying to get.

**Mr Schepers:** I don't know that that money's been given to them. If I can perhaps describe it in a way that it has been described to me by builders of apartment buildings, in essence, when the act was brought about, when it was enacted, essentially the people who built apartment buildings went on strike. They said, "We can't build."

In fairness, yes, there are people who own apartment buildings who say, yes, they can survive with the per cent increases that are in the act and that's true. But I think in fairness, we also look at the stock of public housing, particularly in Toronto, and look at the state of disrepair,

and why that has not been kept up. I think the same argument can be made with government housing vis-à-vis private housing. Nothing has been kept up.

The normal course of events is that with the older apartment buildings, the rents generally don't increase because newer apartment buildings are built. People move out of the older units. They move into the newer units where the rents are higher. They want to move into another space. They want to spend a little more money. They want something a little more ritzy and the older units then take in the newer tenants, the people who are just coming on stream who don't have the money.

That's typical of what used to happen, but since then, they haven't built new apartment buildings so the rents have gone up just on those units. I think you also need to look at the current state of housing that was funded by the provincial government. In fairness, don't just look at housing stock that's private, but look at the public housing stock.

**Mr Curling:** I fully agree with you that the housing stock in public housing has not been repaired, but that doesn't answer the question anyhow, what happened to the money.

**Mrs Pupatello:** Has there been new building of apartment complexes since 1975?

**Mr Schepers:** In fairness, I can't answer that. I can tell you that there have not been a lot of large buildings built, and I think those that have been built have been condominiums. There have been small rental units built, duplexes or town houses.

**Mrs Pupatello:** So if I took a tour around Essex county, I would barely find a new apartment building that's been built in the last 20 years?

**Mr Schepers:** Oh, no, you would.

**Mrs Pupatello:** It makes me wonder that there aren't major other reasons why developers are not building apartment buildings.

**Mr Schepers:** Maybe there are.

**Mrs Pupatello:** In fact, the people that I know in the construction business mention all kinds of other factors, and if I don't say rent control, neither do they. They speak of things like interest rates. They certainly speak of return on investment, but they've never linked it to rent control, and because there are so many other factors involved in developing, it makes me wonder why developers think now there's going to be this sudden lift and there'll be all this building because those other significant issues for them, for developers, are still there.

**Mr Schepers:** I have to agree with you, but I think if you go round, you will find that the apartments that have been built are smaller units. They are probably built by smaller developers as opposed to the large-scale developers, the people who build large buildings. The small buildings that you find —

**Mrs Pupatello:** They're more economical, wouldn't you say?

**Mr Schepers:** Sure they are.

**Mr Marchese:** What you like about the tenant protection package is that the government's proposing to decontrol many of the units, and that's a good step?

**Mr Schepers:** I think so, yes.



**Mr Marchese:** Is it fair to say that some of the rents are likely to go up when they introduce decontrol?

**Mr Schepers:** Certainly.

**Mr Marchese:** Is it also fair to say that will cause some problems for a lot of tenants, a third of whom make below \$23,000?

**Mr Schepers:** It's possible.

**Mr Marchese:** Do you think that's a concern or is that something you should worry about?

**Mr Schepers:** As a citizen, yes. I think we should all be concerned about that, but I also believe there are forces that will counteract that. I'm not an economist, but I would certainly say there are other factors that will come into place that will see some offset, and there will be some people who, it doesn't matter what we do, will be in a bad position.

**Mr Marchese:** Yes, they will be. They are now.

**Mr Schepers:** Yes.

**Mr Marchese:** So the role of government is to worry about how to house people, because some of us think it's a right and others obviously don't. Those of us who believe that housing should be a right worry about what kind of housing gets built if at all and how we house them because many, due to no particular reason of their own, find themselves in very difficult times. Some of them work at very low minimum wage and so it's very hard. When they spend 50%, 60%, 70% of their wages on housing, it's a problem.

**Mr Schepers:** Correct.

**Mr Marchese:** You've agreed that people are not building. I think you said that people are not building because they're not making money.

**Mr Schepers:** That's correct. They're not putting in apartment buildings like they used to because of the economics. I think it was stated; there are other factors. Rent control is not the prime mover, but it's there.

**Mr Marchese:** Mr Lampert, the guy who wrote the report for them, obviously says rent control is a minor issue in the scheme of things.

**Mr Schepers:** Correct. I think the home builders agree with that.

**Mr Marchese:** Oh, they do, and many of them talk about it. Some do, some don't, because they want a lot of things like reduction of development charges, equalizing property taxes which a few other people mentioned earlier. They want to cut in half the GST payable, cut in half the CMHC mortgage insurance fee, eliminate the provincial capital tax and so on. They want a whole lot of things.

**Mr Schepers:** There are a whole lot of things that need to be brought out at this point.

**Mr Marchese:** That's why I say if they need all of that, why wouldn't we as a government be creating, building affordable housing, as we did, the NDP, non-profit and co-operative houses. If no one else is building because they say they can't afford it, because there's an affordability problem, would you not agree that the governments should be staying in the business of building houses?

**Mr Schepers:** No.

**Mr Marchese:** You don't agree with that.

**Mr Schepers:** If they want to stay in the business, I would suggest it's got to be completely changed. I say that because single-family houses were being built cheaper than some of these town house projects.

1810

**Mr Marchese:** All right, I understand: You want the government out of the way and they do too, right? Nobody's building affordable housing — nobody — because there's no money in it.

**Mr Schepers:** I disagree. There are homes that are being built cheaper and they can be purchased cheaper than what some of the subsidized houses were being built for. Perhaps there needs to be another mechanism, another way of looking at things. Let the private industry build them, because there's the competition. I know this, because I worked with a builder for two years, and the cost of building a single-family house was cheaper than building a single unit —

**Mr Marchese:** All right. So there is no rent control on new units. That's a plus for the builders who obviously want to build.

**Mr Schepers:** Sure.

**Mr Marchese:** But we're not seeing much of that construction happening. Is that correct?

**Mr Schepers:** At this point, no, we're not.

**Mr Marchese:** So you want something from them in order for that to happen.

**Mr Schepers:** Yes, that's correct.

**Mr Marchese:** What do you want from them?

**Mr Schepers:** I think some of the other factors that are in the Lampert report have to be brought about. It's not just provincial; there's the federal government. The GST has got to be revamped because of the effects it has. There's an advantage to home builders, because they have a rate of about 4.5%. But for apartments, it's 7%. There's no discount on GST. Development charges are horrendous. The idea of development charges, the idea of —

**Mr Marchese:** The list I mentioned.

**Mr Schepers:** Yes, everything that's mentioned there.

**Mr Marchese:** Those are incentives, of course. Do you see those as giveaways to the developer or they're not giveaways necessarily by doing that?

**Mr Schepers:** No, no.

**Mr Marchese:** That's just an assistance we would be giving you to build affordable housing. Is that correct? It's not a cost to the taxpayer or anything.

**Mr Schepers:** That's exactly right. We don't want anything from the government. What we want is for the government to back off and get its fingers out of the pie.

**Mr Marchese:** All those things.

**Mr Schepers:** Exactly.

**Mr Marchese:** That's not intervention by the government; they're just helping.

**Mr Schepers:** Correct.

**Mr Spina:** Thank you, Mr Schepers. A couple of my questions you've already addressed and I'm going to allow time for my colleagues, but I want to ask you this short question: It was demonstrated over the past year that Windsor has one of the highest construction permit values in the province. That was my understanding.

**Mr Schepers:** When you say "values," you mean?



**Mr Spina:** Sorry, number of permits. I wondered if you had any guesstimate as the builders' association as to what percentage of those might be rental.

**Mr Schepers:** I would suggest that most of them are single-family. That is, in the area that I'm in, I can tell you that most of the building permits that have been taken out in the residential sector have been in the single-family or duplex type of homes.

**Mr Spina:** So not multiple-dwelling, rental type units.

**Mr Schepers:** No, no. There's very, very few of those.

**Mr Spina:** My next question was going to be the incentives, but I think you've addressed that already, so I'll defer to my colleagues.

**Mr Maves:** Just quickly, I'd like to clarify something in the Lampert report. Mr Marchese seemed to think that Lampert had suggested that rent controls have nothing to do with it. But quickly, out of the executive summary, he says: "After 20 years of ever-tightening rent controls and changes in the balance of landlord and tenant legislation, government action is required to encourage significant amounts of new private rental investment. The major initiatives recommended for the government to encourage new rental investment are outlined below." First and foremost he lists, "Relax rent controls and reform landlord and tenant regulations." So to say he doesn't care about it or it doesn't make a difference is folly in the extreme.

The first question is a quick one. Roughly 80% of landlords around the province have small units, six or four or less. Many of these people are older, ready to retire and so on. Is that the same profile as in Windsor?

**Mr Schepers:** I think that's reasonable, yes.

**Mr Maves:** You said you had a guesstimate that about 1,000 people had lost their buildings over the last few years.

**Mr Schepers:** I'm sorry, roughly what?

**Mr Maves:** The previous presenter had said that roughly 1,000 owners had lost their buildings in the last few years. Do you know a lot of landlords who have lost their buildings over the last year? You don't have a number?

**Mr Schepers:** No. You see, the people who are owners of the small units won't be members of our association, only because they've picked them up over the last few years. They may have purchased them as an investment to try to keep things going. But I know a lot of them are struggling, because I have to work with them when they've got to put up handrails. As a consulting engineer, I get involved with some of them. I know they just don't have the money to spend.

**Mr Maves:** There's a myth that the government builds affordable housing. You started to address that. The housing the government built in the last few years was actually more expensive than what the private sector could build.

**Mr Schepers:** That's correct.

**Mr Maves:** The reason why there's lineups to get in is because it's subsidized housing.

**Mr Schepers:** That's correct.

**Mr Maves:** So if the government subsidized a unit that cost \$1,100 and the individual put \$300 towards it, they'd subsidize that to \$800. If they're subsidizing a person for

a \$600 existing unit, they'd be able to subsidize two and half people instead of one.

**Mr Schepers:** That's right. My view on this is that we build subsidized housing — we build town houses, we build complexes — where we put people who can't afford regular houses, and we put them in an area that readily becomes identified as affordable housing. Now, if we could take this same person — and I hate to say it, but we need to get people to buy into and have ownership, because until they have ownership, they don't take any care. I won't say this about all tenants, but there are some tenants who just don't care. They'll go in, they'll take advantage of it, they'll break things, they'll put holes in walls. A good example was in the newspaper. I think it was last week here in the city of Windsor. But they don't have any care concern, because they don't buy into it.

If we could take these same people — and some of them, it doesn't matter what we do, they're going to be the same, and it's the same with landlords, so let's have that as a given — but if we took these people in subsidized housing and had a house built or if there was a house built and we subsidized them so that they could buy into it, I think we would see far more housing being built by the private sector cheaper than what's being built in these developments, and I think we would find more people taking ownership and I think we could house more people.

**Mr Parker:** The answer I'm going to invite you to give may overlap some of the comments you've just made in response to Mr Maves, but let me proceed none the less. As I see it, we as a government, we as legislators, have to address a number of issues in this field. At least three of them are the following: One is fairness to all tenants; one is the development of a supply of housing that will meet our current needs and address our needs on into the future; and one is directing assistance to those who require assistance. There are those people in our society, people who need help, and there will be people who need help with housing.

Mr Marchese was suggesting earlier that the answer to that problem is that the government should provide it. You were trying to respond to Mr Marchese and you had some thoughts of your own on that subject. I just want to invite you to expand on your thoughts.

**Mr Schepers:** They haven't been fully developed, but I feel that rather than bricks and mortar, we've got to invest in the people and let them select where they want to live. If we can have a house built in a subdivision — and Windsor's probably a good example. When the legislation came about that we had to have 25% of the housing in every new development be affordable, Windsor was way ahead of the bandwagon. In fact at that time I think probably 90% of the housing in the city of Windsor was essentially affordable, that is, it was the most economical housing that you could buy. That's still the case. There are builders out there who build homes that are affordable, that is, they're in the lower-price bracket. Maybe the rest of the province needs to take lessons from Windsor in the way they've done it.

I think we can then give people maybe a housing allowance, something of that nature, if they're really in



dire straits, but at the same time, it needs to be tied in. If these people take a housing allowance and they trash an apartment, what good does that do to the landlord? You miss one point: We have to be fair to the landlords as well.

**The Chair:** Unfortunately, our time is up, but we do appreciate your coming forward, Mr Schepers, with your ideas and your input.

**Mrs Pupatello:** Mr Chair, before the next group comes up, I have a submission in written form from a constituent in Windsor. Her name is Margaret Leach. She's on a disability allowance. I won't read it, but if we could have this copied for the members of the committee.

**The Chair:** The clerk will have a copy of it.

**Mrs Pupatello:** I encourage the government members to read this. She's been very active in our community, but I hope you do take the time to read the letter.

1820

#### LEGAL ASSISTANCE OF WINDSOR

**The Chair:** Our next presenter is Carol McDermott from Legal Assistance of Windsor. Good evening and welcome to our committee. The floor is yours.

**Ms Carol McDermott:** Thank you for allowing me to address the committee. I am appearing on behalf of Legal Assistance of Windsor, a poverty law clinic sponsored by legal aid and the faculty of law at the University of Windsor.

As the landlord-tenant lawyer there, I supervise students who are representing clients with a variety of housing problems. Our clients include people who are on various forms of social assistance and the working poor. The vast majority of our clients' housing problems are related to their inability to pay for decent housing and their inability to force their landlords to properly maintain the housing they do pay for. Our clients don't negotiate the rents. They don't bargain for the services they get. They settle for the existence they can eke out with a sense of desperation. Since the cuts to welfare payments that came into effect last fall, they found themselves needing to resort to food banks more and more often. Many of them do without hydro and telephones and water because they can't afford to pay those bills in addition to their rent.

The proposals to eliminate rent control whenever a tenant moves out would just give landlords that much more incentive to encourage tenants to leave that much sooner. Already one local notable landlord is trying to force tenants to sign an agreement to terminate when their lease expires because, as he said, he thinks he can bump up the rent as soon as this act is passed. So even though tenants who complete one year's lease have a legal right to then continue on as month-to-month tenants, this landlord is trying to force them, by saying, "It's nothing, just sign it," to sign an agreement to terminate which will effectively end their tenancy. The minute this legislation that he thinks is going to be passed is passed, he'll waltz in there and raise their rents as much as he can possibly do, which is, as it is proposed, any amount. This is a landlord, from whom you've heard today, who frequently cannot charge the legal maximum rent because

his units are so overpriced and so poorly maintained that nobody would pay that for them anyway.

I beg to differ with Mr Fuerth that our courts don't require tenants to pay rents in before they dispute a landlord's application. In my experience, which has been fairly considerable over the last six years in landlord-tenant court, the courts do enforce that.

A recent time when I was in court with that particular landlord the tenant could not afford to continue to live in the apartment because their disability cheque had been decreased to the point where it just wasn't economically feasible. But rather than leave in the middle of the night, as some tenants are forced to do, this tenant wanted to agree to terminate their lease within a couple of months. That would give the landlord time to re-rent the apartment and would give the tenant time to find another place. The landlord would not consent to that. I said: "Just consent to let them out. This gives you a couple of months to re-rent. It gives the tenant a couple of months to find another place, and with the vacancy rate the way it is in Windsor, you can easily re-rent it. In fact, you have a legal obligation to mitigate your damages and re-rent it." As this landlord indicated, there were a lot of vacant units in that building and it was very difficult to re-rent them because they were well overpriced.

It's not that there's really a lack of housing. It is that there is a lack of affordable housing. Taking rent controls off will not mean that there will be more affordable housing. No evidence has been presented to prove that taking rent controls off, which this proposal would effectively do, would encourage people to build more housing. Even if it did, new units would not be priced at a level that our tenants could afford to pay. What would happen is they would be pushed out of the few units that they can now afford to pay and there would be even fewer that they could move into. They don't have a lot of choices. They usually move into a unit because it's what they can find and what they can afford.

Occasionally, when a story that I hear over the telephone is disturbing enough, I'll go out and do a home visit. Not long ago, I went to an apartment specifically because I was concerned about how bad it sounded. When I got there it was clearly a firetrap. The bathroom door had to be kept constantly closed because the toilet didn't flush. The bedroom door had to be kept closed because there was no heat and the cold was escaping into the rest of the unit. When I sent that tenant to another social service agency for some related assistance, while the tenant was out somebody else moved in.

Affordable units in Windsor are so rare that tenants stay in them even though the stories they tell of the lack of maintenance and repair and the harassment and treatment by the landlords are often so horrendous that my first reaction is to say, "Well, why on earth did you move in?" I know why they moved in, as they'll tell me. They moved in because it was better than being on the streets.

The proposal to have an anti-harassment unit is interesting and I love the idea of having some kind of office with people who are mandated to enforce tenants' rights and protect them, but there already is a compliance



and enforcement unit at the Ministry of Housing that is supposed to enforce the Rent Control Act. Unfortunately, it's situated in Toronto and staffed with I think two or three investigators who are responsible for investigating infringements of the act throughout the province. With that amount of staffing they're really not capable of having a very big impact on the problem.

There are other provincial offences set out in the Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act which could provide some teeth to protect tenants' rights. But unfortunately, because of cutbacks in the judicial system generally, it's very difficult to get a justice of the peace to lay charges under any of those acts and it's more difficult to get a prosecutor to enforce them. Most of our tenants are not sophisticated enough or literate enough to be able to prosecute their own informations. Although it would be interesting to have some anti-harassment unit, if that's only brought about because of a change which is providing a financial incentive for landlords who harass tenants into moving, then I don't see a lot of point in it.

The maintenance provisions: I think it's wonderful to simplify some of the problems of inspectors enforcing housing standards. Unfortunately in Windsor, as I think is true in many other municipalities, the number of inspectors is declining dramatically because of cuts to their budgets. Furthermore, certainly in Windsor, the priority for housing inspectors is to inspect new buildings, not follow up on complaints. So tenants often have to wait days or weeks before an inspector will come out. Then they're often so rushed that they will only really put any pressure on the landlord if it is the most serious problem. Usually by that time, if it's that serious the tenant just has to move because it's a safety issue.

I applaud the idea of codifying what a landlord should do with chattels left behind by a tenant. That's a problem that can be resolved fairly simply by providing a solution that sets out some pretty clear criteria for determining when a premise has been abandoned. That could be very useful and could be very simply done.

I think there are some improvements which could be provided by the delivery system. In all three acts, the Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act, there are a number of substantive rights that have been added and developed over a great many years. I think they're very important. They have been refined by legislation and by case law to the point where they present a good balance now. I think there are some problems in procedure that create some time problems, create some confusion and that leads to some complaints by landlords.

Certainly in Windsor one of the problems is that landlord-tenant court only sits every other Thursday. When you look at the forms that landlords serve on tenants, they're a bit wordy, they're confusing and some of the procedure is complicated. Landlords who don't know what they're doing can make a mistake fairly easily and then could be back at the drawing board starting all over very early. If the timing has happened with the court only sitting every other week and occasionally a judge not being available, I can see how occasionally it can be a slow process to get a defaulting tenant out. It doesn't

have to be slow if you do it right, but sometimes the process is a bit cumbersome.

I think that could be cleared up fairly easily. The forms could be simplified. A proper form could be provided for tenant applications. Right now there's really only a form for landlord applications, not tenant ones, and that needs to be added.

#### 1830

In terms of a delivery system, it would be wonderful to provide for mediation. In most cases, the vast majority of cases, arrears are the problem and the tenant doesn't have a lot of choice because the tenant doesn't have a lot of money. So the tenant's not in much of a bargaining position. For those circumstances, mediation isn't going to be very helpful. But for other circumstances, such as tenant-to-tenant problems, mediation could be very helpful and I think that could save some of the court time.

An administrative tribunal could also divert some of the matters out of the court system. Although I'm not sure that it would necessarily be cheaper, it could be less cumbersome and people could have a hearing that protects their rights and guarantees they have had a fair hearing without some of the technicalities and time delays involved in the court system.

In my paper, I've included a list of recommendations at the very back. They can be basically summarized under two conclusions. I think the substantive rights that are provided by the three acts are good and should not be tampered with. I think the procedural framework can be made clearer, simpler and faster. Although none of those recommendations will encourage more building to alleviate some of the demands of lack of housing, I don't think those recommendations would cause some of the negative problems that the proposals would.

I'd be happy to answer any questions, if there are any.

**The Chair:** Thank you, Ms McDermott. We've got about two and a half minutes per caucus, beginning with Mr Marchese.

**Mr Marchese:** One of the substantive areas of change here is the decontrolling of rents. That, to me, is a fundamental discussion. It's really key to what is being proposed, although some other changes are equally important, like the elimination of the Rental Housing Protection Act. Do you think you need to be an economist to be able to comment on whether rent controls are good or bad? Do you have a view on rent controls generally?

**Ms McDermott:** There's been a lot of discussion today about whether rent controls have worked or not. I think first of all you have to ask, what were they designed to do? I don't think they were designed to encourage building. I think they were designed to prevent economic evictions. If they were designed to prevent economic evictions, they have worked. They have given tenants some sense of security. They have given them some power to say: "No, no. You can't bump up my rent 50% just because I've asked you to make some reasonable repairs." I think they have worked very well in that regard.

**Mr Marchese:** I agree. They make the link, many of them, between rent control and building and rent control



and maintenance and make the assumption that the reason why buildings are in a sad state of disrepair is because of rent control. Do you have a view on that?

**Ms McDermott:** Yes. I'd like to see where the 2% has gone. I don't think it's gone into maintenance repair. I think it's gone into landlords' pockets. I think 2% could have made some significant impact on the maintenance and repair over the last number of years.

The other issue is that if you buy a building that has been allowed to deteriorate over the last 10 years thinking that you're going to apply for an above-the-guideline increase in order to make it up, if you've bought it with your eyes wide open, then I have no sympathy.

**Mr Marchese:** A few people got trapped in that, I suspect, and so they blame it all on rent control obviously. But I haven't seen any evidence suggesting that if you lift rent controls, all of a sudden our buildings will be maintained any more, and there's no evidence to suggest that rent controls prevent people from building.

I know Mr Lampert suggests that's an essential first step, meaning landlords would love not to have rent controls and they see that as a very positive thing so they can charge whatever rents they want, but in and of itself it will not cause any construction, and I think you'd agree with that?

**Mr Hardeman:** Thank you for your presentation. As we've been travelling the province, we've been hearing a lot about the maximum rent allowed under rent control and the actual rent that tenants are being charged. We find that in the areas where we have low vacancy rates, the majority of landlords tend to be at the top of the allowable rent. Where we have high vacancy rates, we tend to be considerably below the allowable rent. In your presentation you mention that in the cheapest of the apartments in the Windsor area — incidentally, Windsor is a reasonably low vacancy rate — the landlords were not up to the maximum rent?

**Ms McDermott:** I didn't mean to imply they were the cheapest of the rents, but there are some units that are highly priced at the legal maximum rent just because at the time rent control first came in they were overpriced, and they now have been allowed to deteriorate to the point where nobody will rent them for the price that the legal maximum would allow. So that landlord is renting at sometimes \$100 and \$150 less per month than the legal maximum would allow, but then saying, "If you complain about anything, we'll bump it up immediately," or "If you refuse to renew for another year at the end of your first year, we'll bump it up immediately." They will threaten to bump the rent up to the legal maximum, where no other tenant would rent it at that rate.

**Mr Hardeman:** The other issue is the harassment commission, and you suggested that you were somewhat favourably disposed to that part of the discussion paper. One of the things that is brought up continually through the hearing is that the decontrol is going to create the need for that harassment commission. We've heard a lot of presenters say that harassment already exists. Could you give us some idea why a landlord today would harass a tenant to get him out?

**Ms McDermott:** Sometimes just because there's a power imbalance and some people like to harass people

who have less power than they do. Sometimes it's because they're going to bump the rent up even though it's illegal, but at least it's easier to control their doing that. A lot of landlords now will serve the tenant with notice saying the landlord's going to move in himself or herself just so they can raise the rent either to the legal maximum if it's been rented below that before or to something beyond that, because they don't think anybody's going to find out, which of course if you get rid of the rent registry, they would do.

**Mrs Pupatello:** Thank you for your presentation today. I found it very succinct. The most important sentence, I thought, was, "The problem is not rent control but the fact that new housing cannot be built at a cost that tenants can afford to pay." It goes back to the argument that when I speak with people who build apartment buildings, the issue is never rent control. Their discussion has everything to do with every other reason why they cannot build an apartment building that they can rent up. If you had to go today with all the money in the world, you can find an apartment anywhere. That is not the problem. I find it difficult that we're honing in on this rent control and tend once again to be pitting sides: developers versus tenants, landlords versus tenants. It's one more method of division in Ontario.

Do you agree with something that was said earlier by someone you may know, that rent controls are also flawed because a substantial percentage of tenants have the means and income to pay more rent, but controls prevent this, and the objective should be to assist only those who are genuinely in need of assistance? That was submitted by Danzig Enterprises. Do you agree with that?

**Ms McDermott:** I'm certainly familiar with that presenter. No, I don't agree with it. Certainly my clients are not those people who are being prevented from paying more than they could afford to pay because rent controls are keeping the rents so low.

**Mrs Pupatello:** You could argue there probably are some places where this is the case.

**Ms McDermott:** There may be. I don't think it's in Windsor. I wonder who these builders think they're going to rent to if they're going to build these brand-new units that are going to be priced so much higher than the units that are presently available. Who are they going to rent to? Wouldn't those people who could afford those kinds of rents be able to afford to buy a house?

**Mrs Pupatello:** Or if they were in a position to move from a home to an apartment because of the ease of apartment living, they'd likely buy a condo to maintain the equity in a thing they owned.

**Ms McDermott:** Exactly.

**Mrs Pupatello:** I find that strange too.

**The Chair:** Thank you very much for your input this afternoon, Ms McDermott. We appreciate it.

#### BUSINESS AND PROFESSIONAL WOMEN'S CLUBS OF ONTARIO

**The Chair:** Our next presenter is representing the Business and Professional Women's Clubs of Ontario, Susan Lescinsky, vice-president, public affairs. I understand she's going to share her time with Mr David Lyons.



**Mrs Papatello:** It's too bad we can't afford to give him his own time slot like we can Bill Taylor.

**The Chair:** Just for your information, he was offered his own time slot and decided not to take it.

The floor is yours. You have 20 minutes. Should you allow time for questioning, it would begin with the government.

**Ms Susan Lescinsky:** I'd like to thank everybody for coming, the Chair and all the members. My name is Susan Lescinsky. I am a member of the Business and Professional Women's Club here in Windsor and I'm also the vice-president of the Business and Professional Women's Clubs of Ontario. Our club is a non-partisan, non-profit organization which promotes the interests of working women in the province of Ontario. We also operate under the Canadian Federation of Business and Professional Women's Clubs for improvement of the status of women in all phases of society. We have women in all business and professional occupations, including business owners, managers and employees, both inside and outside the private and public sectors, and our organization has been here since 1927.

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Some of the areas that have been discussed in the discussion paper that you have brought forward we agree with, having to do with more powers given to the property standards officers, increasing fines for offences as well as consequential offences, and streamlining violation orders. What we are concerned about are the increases to rent, the removal of the rent registry and the rent control on new properties, and the right of owners to convert, demolish or do major renovations to the property.

What we want to bring to your attention are some of the facts in the province having to do with women. In 1995, women made up 51% of the population of Ontario. They also headed 83% of lone-parent families. Women are the lowest-paid wage earners, making approximately \$20,662 a year. Rent consumes the largest portion, which is 20%, which leaves the remainder to be divided between transportation, food and clothing for their children, plus other miscellaneous items.

Statistics Canada states that households that make under \$20,000 have the largest portion, 44%, of affordability problems when it comes to renting. With 70% of lone-parent families renting, this is a very big concern of ours. Looking at the average wages of women and what they pay out for rent as well as what they have to put forward for other necessities, they have to depend on affordable housing to be able to look after their children. As you can see, a very big portion of our population are going to have to be worried about affordable shelter and also where they live. In the last year those on social assistance have seen their shelter allowance decrease from \$652 to \$511 for a single parent with one child and from \$707 to \$554 for a single parent with two children.

Older women are also very vulnerable. In 1991, 41% of those over 75 years old lived alone. The average income of seniors is only \$27,000 a year. With women living longer than men and living on their own, rent is an important factor when it comes to budgeting.

The rent registry: We feel this should stay in place to protect tenants. It provides checks and balances for a system to ensure that rents are not excessive.

Rent increases: Under investigation now, the current property tax system is being changed to actual value assessment, under which the ministry itself admits there could possibly be up to 40% in increases. This could be very precarious for both landlords and tenants. Taxes under this system are considered extraordinary operating costs and will be included as part of the rent which is then passed on to the tenant. This could raise rents quite significantly even if the government did cap the amount allowed in the increases for the year. This could cause a ripple effect for the people renting as they start moving around and looking for affordable housing. At the same time, the rents will be going up as people move in and out of tenant buildings.

The municipalities will now be able to recover for inspection of property or emergency work that is being done by the municipalities, and it will be added on as part of the municipal taxes. This allows the landlord to negate their responsibilities and to pass the costs on to the tenants. If the landlord cannot abide by work orders and property standards, then the cost should not be reflected back to the tenant but should be placed as a lien against the property and appropriate fines imposed. This was part of what you had suggested in your discussion paper, and we agree with it.

With wage levels at a standstill, people constantly in transit in jobs and the uncertain outlook on the employment horizon, people need to ensure that appropriate shelter is available to them. Economists state that there was a slight increase in the levels in 1994, but even then Canadians were roughly earning now what they were earning in 1976. They did not keep pace with inflation in 1995. If wages are not going up, then allowing rents to increase without any restrictions would be detrimental to tenants.

Statistics Canada has also stated that 4.3 million people — one out of every four — face a major job change in the next 12 months. Because of changes in the job market, people have joined, quit, lost or found new jobs. An estimated 17,000 people between the ages of 16 and 69 face major job changes within the next year. The government's own Lampert report revealed that more than two thirds of Ontario tenants will be moving once every five years. With the fluctuation in the workforce, the minor increase in wages and the movement of workers, how can rents increase and people still have enough money to live on?

The minister says the marketplace will control the rent, but when vacancies are low, how can they be controlled when there is no market value? The idea that tenants can then bargain for a new TV or microwave doesn't make any sense. Unless there is a large vacancy rate with unemployment low and wages being able to bargain, then there's no way that this situation could possibly occur.

You asked for some input on several points. Dispute resolutions: Even though an independent agency would be subject to its own policies and legislation, it would still lose accountability if it isn't going through the minister's office. We would prefer to see the government look after its own legislation and have direct accountability through the ministry.



On appointments of adjudicators, appointments by order in council could easily turn into patronage appointments. The same thing could happen when tendering comes about. Costs could rise for both tenants and landlords if companies set out to make money at the cost of landlords and tenants by adjudicating disputes attached with high fees. To make the system fair and to ensure gender equality on all agencies, boards and commissions, the appointment of government employees should be through their own process.

**Security of tenure and conversions:** Sitting tenants have the right of first refusal to purchase their units in case of conversion. If these tenants are on fixed incomes and the amount of tenure is very short, how will they have a chance to be able to worry about where they're going to go? If vacancy rates are low, the extended tenure time is limited to a short period. People could be out in the streets or in hostels. Another concern, again, is that they'd be looking for a new place to live, and with rates going up every time tenants go in and out of buildings, there's a lot to worry about.

We believe that even though properties need to be renovated, there should be maximum allowable increases to keep in line with feasible wage gains and inflation rates. The cutbacks to allowances for shelters for social assistance recipients, construction of non-profit housing very minimal, meagre wage gains and the lifting of rent controls would put individuals at the mercy of landlords to either pay the increase or forfeit their shelter. For those women who are living alone with children to feed and clothe while working for minimum wage and trying to make ends meet and for senior women who are on fixed incomes, the socioeconomic devastation will be great. The need for more food banks, secondhand clothing stores and substandard housing would be the norm of the province.

I'd also like you to have a look at the last two pages of my brief. Those are resolutions that are passed by our organization yearly. They are brought before our whole membership and they are passed and they are presented to government every year in briefs. These are the ones that relate to the housing and also to the appointments.

I'd like to turn my extra time over to David Lyons.

**Mr David Lyons:** I'd like to thank everybody for coming to Windsor and thank Susan in the Business and Professional Women's Clubs of Ontario for the opportunity to allow me to speak here today.

I'm here to represent the views of young people. Today we see that the views of young people are not being equally represented. Today marks the day that all levels of school are back in session. That means I should be in class right now attending.

First this government has made cuts to health care, then education. In education we've seen an increase of 20% in tuition. At York University, the tuition went up by \$686 a semester. Is this fair? No, it's not. It's going to cost us more and more to get an education to leave school in three or four years to head into the job market. Now this government wants to get rid of rent control.

Many young people have a lack of information and a lack of knowledge about rent control, and many young people fear eviction if they speak out against their

landlord or if they complain to their landlord about the way their living arrangements are. Many young people would just put up with the harassment. In Windsor, speaking to youth, a semi-detached three-bedroom home will go for approximately \$875 a month, plus utilities. That means that three students need to move in to split the costs of the rent and the utilities. So we're looking at \$1,100-plus. This is already an outrage living and trying to go to school. If not, you can look into rooming-houses, where rooms are going for \$400. There's about an average of five rooms to a house; anywhere between four and five rooms, \$400 a room. That means you have a common bathroom and a common kitchen. There's no privacy.

Many of these students are forced to live near the campuses in these houses and in these rooms because classes start early or classes end late or we need to study at the university library. Classes on average start at 8 am, and the public transit system here in Windsor does not start till 6 am. So if students look to move outside the campus area and move further into the east end, we're looking anywhere from an hour to an hour and a half bus ride in the morning or after school to get home.

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There will be an obvious increase in rent around campus if this discussion paper is passed and turned into legislation. It's phenomenal to live here in Windsor and attend school. As I stated earlier, there's changes to OSAP, and the federal student loans are placing young people intending to pursue a post-secondary education in a sticky financial situation. It just makes it harder and harder for us to attend school and to try to get a job and to graduate.

Young people are the voters of tomorrow. I know that not all young people are Tory youth. With the cuts that have gone on to health care, education, tuition increases and the possibility of abolition of rent control, I am sure young people will not be voting Tory next election.

**Mr Smith:** Thank you for your presentation. I want to come back to an issue that Mr Hardeman raised with the previous presenter, because it's an issue that we've addressed over the last two weeks on a number of occasions, and that's on the maximum rent issue. I guess I'm trying to reconcile in my own mind the concerns tenants have with the elimination of maximum rents. To be honest with you, pretty well in every community we've been in, landlords have asked us to retain the maximum rents, because they're concerned the market forces are going to press it down and they won't be able to retrieve that at a later date. Given that fear they have — and in some communities, in fact in Ottawa we've seen a decline of 3% or 4% in the actual rents — what do you think is the reason behind that and your concerns of whether rents are going to skyrocket or increase?

**Ms Lescinsky:** You're asking me?

**Mr Smith:** Certainly.

**Ms Lescinsky:** One of the concerns that we have is if the rent goes up too high, if you're talking to women who are lone-parent families, that's a very, very important part. I do agree, and I think most of the members of our organization would agree, that, yes, there are some



reasons why landlords have to make sure — because we have landlords who are in our organization who are saying, “We have to be able to make sure that we can fix up the places and we can get something back so that we’re not going in the hole.” I can feel for those landlords, but we do have to also make sure that we’re able to balance both: able to give the landlords something so they can fix up their places and also make sure that people who are in positions where they have less money coming to them are looked after.

If you’re looking at the social assistance recipients who have less money coming to them now and they’ve got children to feed and they’re working and they’re trying to make ends meet, and then all of a sudden they have to move or there is an increase in rent, how are they going to make it if there’s nothing on the other side that’s helping them to be able to keep up with the small wages they make? There’s only 1% of disposable income that’s left in between, Statistics Canada has shown. I mean, 1% is not a lot to be able to even allow for rent increases.

**Mr Smith:** Would you consider a 34.8% increase in rents over a five-year period excessive?

**Ms Lescinsky:** Thirty-four per cent in five years? No.

**Mr Smith:** You would think that’s a fair amount.

**Ms Lescinsky:** I’m trying to divide it out quickly to see, because you’d have to divide it per year, and then 12 months into every one. It would be a small percentage. But when you’re talking about rent increases, you’re not talking about over that length of time; you’re talking about per year. What is that portion of increase that’s going to be attached?

**Mr Smith:** The reason I’m asking is because an earlier presenter — I believe it was Scarsdale Tenants’ Association — has experienced a 38% increase over a five-year period under the current rent control system. I’m just trying to get a sense of whether you feel that’s a fair number.

**Ms Lescinsky:** I really couldn’t answer that. I really wouldn’t know.

**Mr Hardeman:** Thank you very much for the opportunity and thank you for your presentation. You referred in your presentation to the reassessment process we’re going through to market value assessment, or a value-based assessment I guess is the proper term. You suggested that you feared that would increase the taxation on rental accommodations, when in fact we’ve heard over and over that there seems to be an unfair advantage to owned units as opposed to rental units. In some areas in fact, it’s 400% higher taxation on a rental unit than on exactly the same condominium unit. So it would seem to me that a fair assessment system should improve the lot of the people who are renting their accommodations. Would you not agree with that?

**Ms Lescinsky:** The rent would still increase. If you’ve got 40% that’s being increased in one year, that’s quite high. So what I’m saying is there should be some limitation that is put.

**Mr Curling:** Thank you both for your presentation. In trying to respond to the government’s proposals, whether or not they’re fair, if earnings could exceed the increase, then it would be all right. If earnings are up just 5% and rent goes up 34% over that time, you realize who’s losing

out on this. We’ve got to put the matter of affordability in perspective.

I think you’ve touched on some very good points, and some of the answers I was looking for about women and the impact it has on women which you addressed here are right on. I’ve extracted some pertinent facts out of this and I hope the government will take that into consideration.

If you don’t mind, although there are quite a few things I would like to address, let me take the opportunity to ask the young gentleman here. Over the time we have been around, students of course have had a great impact. They move quite regularly, especially when they are students. They have been subjected to OSAP — not this government — loans that have been slashed, they’ve cut grants, tuition fees have gone up, user fees have been done, and now you’re hit with a higher rental accommodation fee. Do you think this will adversely affect education, where the government wants young people to be trained more? Will this impede accessibility to proper learning and training?

**Mr Lyons:** Definitely. A lot of people aren’t going to end up going to school. We’re going to end up dropping out of our first year — because we won’t be able to afford to go back a second year — and working in the factories. A lot of us have high goals set. We won’t be able to. Education is just going to cost us too much.

**Ms Lescinsky:** No factories are hiring.

**Mr Lyons:** Yes, that’s even true. There are no factories hiring. That’s an assumption I’m making. There are even no jobs out there. I’ve been unemployed since February, and it’s costing me mega-dollars to go back to school. I probably will not be going back in January because of the fact that I can’t afford it.

**Mr Curling:** Let’s go back to the job market, because sometimes we can’t put rent control in isolation. Talk about earnings — I think the question was very well said by Mr Smith: Is this excessive or is this fair? When you take everything else into consideration, like jobs for young people this summer, was it more difficult to get jobs for you to supplement your income or supplement your tuition fees?

**Mr Lyons:** Yes. I haven’t had a job since February. I got laid off and I could not find a job. The job market and the competition out there is phenomenal.

**Mr Curling:** So the nail in the coffin now would be just to pull out rent control and say, “That’s it.”

**Mr Lyons:** And say goodbye to our education. That’s about it. I think a 34.8% increase in rent over five years is phenomenal unless we have income coming in or an increase in OSAP and government loans.

**Mr Curling:** Why would the government want to do this? Why would they do this then? What is your feeling?

**Mr Lyons:** My feeling is so the rich can get richer and the poor can get poorer.

**Mr Marchese:** I agree with that.

**Interjection:** It’s your line.

**Mr Marchese:** David, just quickly, I wanted to say I agree with the presentation of your views around this matter. I wanted to say that my daughter is going to the U of T this year. She lives at home and can almost walk to the U of T, so it’s nice, but not many students who



have to go from home to some other university are going to be so lucky. I suspect a lot of them don't realize this proposal is afoot, and once they discover the implications of this, I think we're going to see a lot more students organizing against it, because it will be against their interests when they find out rents are going to go up.

To Ms Lescinsky, a question: Some of the presenters have almost made it appear that getting an increase of 5% or 10% is an important thing because landlords need that fair return. What we have known, in everything that I have seen, is that they get a fair rate of return at the moment. We can disagree whether it's 10% a year or 5% a year, but we suspect they're doing okay. You have landlords coming here saying, "Five per cent is all right," or other members arguing, "What's fair for the poor landlord?" About a third of all tenants make less than \$23,000 and I'm worried about how they're going to make ends meet, yet the members talk about fairness. I know you're worried about it, because you mentioned that. Don't you worry about those kinds of increases?

**Ms Lescinsky:** Oh, definitely. That's really what we based our brief about, because we're concerned about people who make under what is considered the poverty line, or very close to. People who make \$50,000 or \$60,000, if they do rent — most of them have homes of their own by that time — they don't have to worry about that. That's not a concern of theirs. Where the concern lies is for women and children and for men and children who are in lone-parent families, who do not make the amount of money that is necessary for them to have adequate food and shelter and clothing for themselves and their children. Food banks already are being blown wide open and it's going to get worse if we don't look after individuals in the province of Ontario.

**Mr Marchese:** It's incredible how power and privilege can shape the policies of society. It's interesting, we have landlords who come here and of course they're in complete agreement with the Conservatives. They're both on side with this particular view.

**Mrs Pupatello:** Not all of them.

**Mr Marchese:** And we have most other people, like yourselves and other tenants and other organizations, very worried about the implications of decontrolling rents and the elimination of the Rental Housing Protection Act. It seems like they're the only experts who can comment on it. Do you feel qualified to comment on the issue of rent control?

**Ms Lescinsky:** Just by looking at statistics, you can almost make some comparisons. I don't think you have to be a rocket scientist or Einstein to be able to look at what the figures really are. There are no increases in wages. It's flat, it's dead, it's at a standstill. To be able to say to people, "We'll raise your rent," and not have to worry about adequate shelter for them after that just does not make any sense. There are 11 million people in the province of Ontario and 3.5 million are renters. That's a big portion of our province to whom we're saying, "We won't worry about you now."

**The Chair:** Thank you, Ms Lescinsky and Mr Lyons. We appreciate your input here this evening.

Linda Girard from the Windsor Coalition Against Poverty has notified us that she's unable to attend, but

she is submitting a written brief. We asked Mr Fuerth to cancel. Is Joseph Krall here? We'll recess until 7:20, or earlier if Mr Krall or Mr Samuel arrives.

*The committee recessed from 1904 to 1925.*

## JOSEPH KRALL

**The Chair:** Luckily, our next presenter has arrived a few minutes early: Mr Krall, executive director of the Federation of Windsor-Essex County Tenants Associations. You have 20 minutes, sir. The floor is yours.

**Mr Joseph Krall:** Good evening. My name is Joseph Krall and I approach this committee today out of grave concern over the proposed New Directions related to rent legislation. I would like to thank you for this opportunity to voice my concerns.

This presentation is not being made on behalf of any special-interest group. However, as you may be aware, I was the executive director of the Federation of Windsor-Essex County Tenants Associations, also known as FOWECTA, from October 1992 through August 1995, when provincial funding was terminated. FOWECTA was the advocacy and information voice for 20,000-plus Windsor and Essex County tenants, and as agent on rent control applications, we aggressively helped tenants to collect far in excess of the \$55,000 per year community partners grant we received. Therefore, I've had extensive personal experience relating to the problems being faced by private sector tenants, particularly related to rent legislation.

Regarding the New Directions, even the key proponents appear to be misinformed regarding its effect upon tenants. For example, Premier Harris was quoted on June 25 of this year as saying, "No tenant will have their rent go up any more under the system we're proposing than under the current system." Further, Minister Al Leach has stated: "There are many aspects of rent control that work — those we will not change. There are many aspects of rent control that need to be improved — those will be improved." Based on what I've read concerning the proposed changes, it would appear that total rent increases and rent levels will be higher and the proposed improvements amount to regressive, hurtful changes for tenants and an improved guarantee of profitability for landlords.

The discussion paper makes several references to a lack of maintenance and repair in the existing rental stock. However, the proposed improvements will only make a bad situation worse. For example, New Directions proposes to improve the problem by eliminating the rent freeze which currently applies to a building that has outstanding property standards violations. This is improvement?

Further, since the current system does not create any incentives for landlords to put money into maintenance, under New Directions, landlords will no longer be accountable for the portion of the guideline increase which is earmarked for maintenance and capital work. I ask you, is this an incentive for landlords to do the required work?

In all fairness, increasing fines and creating offences related to property standards violations is a positive



move. However, I strongly suspect that enforcement and prosecution of these offences will be extremely limited, thereby negating any possible benefits and certainly not creating any incentives.

In respect of new construction, I cannot see anything in the proposed legislation which will encourage same. The greatest need for rental units is at rent levels well below the profit level related to new construction. I seriously doubt that anything proposed in this legislation will encourage a developer to build one-bedroom units renting at \$700 per month if his break-even point is \$1,100 per month, that is, unless of course landlord welfare, or shelter subsidies as some prefer to call it, are going to be a surprise part of this package of incentives and protection.

Eliminating the Rental Housing Protection Act will abolish and not provide a very basic protection required by Ontario tenants. Without question, this province will lose affordable rental accommodation and tenants will lose their homes. In spite of the major barriers under the RHPA, we have seen a few local tenant-initiated cases of conversion which provided affordable purchase opportunities to tenants, and FOWECTA did not oppose those initiatives. However, I have heard many landlords threaten demolition or conversion over the years and I am certain that several would have followed through if not stopped by the RHPA. Eliminating the RHPA, particularly in conjunction with other ruinous aspects of the proposed legislation, is tantamount to a mass eviction of Ontario tenants and will surely result in the progressive elimination of affordable rental housing. To allow this housing to disappear at a time when we are not building public housing and the private sector is unable to build will certainly guarantee this government a prominent place in the Ontario hall of shame.

Call it what you may, but this tenant protection legislation is anything but rent control. By eliminating the rent registry and allowing rent levels to rise to whatever the market will bear as they become vacant, affordable housing will become a thing of the past. In general, tenants move quite frequently and I suspect that it will not take very many years for these new protections to impoverish a broad cross-section of the renting public in this province.

Particularly in a low-vacancy market like Windsor, the proposed legislation is a recipe for disaster. In representing hundreds of tenants at rent control and counselling hundreds more, I found no shortage of landlords who were willing to go outside the parameters of legislation. Illegal rent, illegal charges and illegal evictions could always be justified in some way or another by the offending party or his solicitor. Even upon receipt of an order outlining the violation and ordering restitution, many would repeat the offence with new tenants. Compounding this problem, there was only token, travelling prosecution of these offenders by the ministry. Local efforts to obtain prosecution were sabotaged by a crown that refused to prosecute these matters, preferring to deal with more serious issues like seatbelt violations.

The new legislation promises to protect tenants by adding a new level of useless bureaucracy and cost in creating an anti-harassment unit. The irony is that the

anti-harassment unit is only required as a result of tenant protection legislation, which transforms those who live in affordable housing into sitting ducks. Even worse, I suspect that most tenants will run from this bureaucracy and that those who seek its protection will be very disappointed in the results. The real incentive here will be for landlords to get rid of tenants in affordable units so that the rent may be raised and/or services reduced.

Quite simply, you cannot protect a tenant if you remove all protection related to the unit. Real people live in these units and these real people will be forced to pay many more real dollars with the new protections that they would have under the existing system.

Further, landlords will be able to apply for an additional 4% related to capital repairs, up from 3%, and do so without proving that they have already spent the 2% for maintenance built into the guideline, as they are required to do under the existing system. Under the proposal, once a capital expense has been paid, it will stay in the rent forever, instead of being removed as it is now. Although somewhat unclear, it would appear that the proposal is also opening a door to unnecessary luxury renovations, and if that isn't enough protection, tenants will also lose the right to seek a reduction in rent due to a reduction in the cost of heat, hydro or water.

The only real protections which are not being plundered by the current proposal are those that exist when a tenant moves into a unit. Unfortunately, however, any real protection will be negated by the serious financial damage which has already been done by the time that tenant actually moves in.

It would appear that one of the unwritten goals of the proposed system is to guarantee profits to landlords. In virtually any other business enterprise, profits are generated by applying sound business practices to a sound investment, not by legislated gouging at the expense of the consumer. Why then are profits being guaranteed to landlords at the direct hurtful expense of tenants, irrespective of whether that landlord has made foolish investments or runs a tight ship? Regrettably, it would appear that a well-heeled landlord lobby has convinced this government that such a guarantee will result in the restoration of existing stock and the construction of new units. As I've already mentioned, these events are unlikely in any measurable form. Why then are we guaranteeing profits to landlords under the guise of tenant protection?

While the discussion paper lacks detailed specifics, I have concerns about changes which automatically give a landlord rights that he or she hasn't required in a lease agreement. For example, as a result of these changes, a landlord's consent will now automatically be required upon sublet or assignment and privacy protection will be automatically waived after a tenant has given notice of termination. In both these examples, a landlord can currently receive these rights by virtue of an agreement between the parties, but it is not an automatic legislated guarantee of absolute control as proposed in the new protections.

Regarding a new dispute resolution system, I would applaud a one-tiered system which would streamline the process without prejudice to tenants. However, the



discussion document lacks specifics and I must express a serious concern over any efforts to broaden the grounds for eviction and to develop a fast-track eviction process. Locally, we do not encounter the delays illustrated in the discussion document.

Any fast-track proposals are extremely prejudicial to the average tenant who is uninformed about his or her rights. Conversely, it would be sheer stupidity for a landlord to be uninformed about the laws related to his business enterprise. Most landlords are also at a financial advantage and are more likely able to afford high-powered professional assistance and advice. Therefore, regardless of the merits of any dispute, this creates an advantage for the landlord and prejudice towards the average tenant.

The proposed changes concerning care homes and mobile home parks are for the most part regressive and hurtful. It is not necessary to open the door to abuse by creating a fast-track eviction, nor is it necessary to allow higher-cost pass-throughs. Neither of these changes legislate protection to the tenant.

The proposed tenant protection legislation fails miserably in achieving its goals. For example, the goal to protect tenants from unfair or double-digit rent increases, evictions and harassment and to provide strong security of tenure I grade an F. These proposals will not do any of the above.

In respect of focusing protection on tenants rather than units, I grade it a D- because there is not much real protection left for tenants upon implementation of these proposals. Protection and guarantees have actually been focused on landlords.

In regard to the goal to create a better climate for investing in maintenance and new construction, therefore creating jobs, I grade it a D-. This proposal will do nothing to bring about new construction and is most unlikely to inspire any measurable increase in maintenance.

Regarding the goal to improve enforcement of property maintenance standards, I grade it an F. I believe this is total hogwash. This proposal will do no such thing and is most likely to inspire additional abuse by allowing rent increases while there are property standards violations.

In respect of the goal to provide a faster, more accessible system to resolve disputes between landlords and tenants, I grade it a D-. I feel it's most unlikely that landlord and tenant disputes will be settled any faster under the new proposals and the lack of particulars in the discussion document erodes any possible optimism.

As to the goal to deliver a more cost-effective administration with less red tape, I grade it again a D-. This system will create new levels of bureaucracy, and in the absence of cold, hard facts I find it most unlikely that this goal will be attained.

The proposed legislation has been marketed as tenant protection legislation but could most accurately be described as landlord protection or protection erosion. In consideration of 3 million-plus Ontario tenants, I urge this committee and all elected members to reject these proposals.

**Mr Crozier:** Good evening, sir, and welcome. Just for my own information, at the conclusion or when

FOWECTA was no longer in existence, which was in summer 1995, I think you said —

**Mr Krall:** It was the end of August of last year.

**Mr Crozier:** — who would you say is able to speak for those tenants you spoke for prior to that date?

**Mr Krall:** There really is not a group functioning in anywhere near the capacity that FOWECTA was, so I believe the answer is, there is none.

**Mr Crozier:** When you say that you aggressively helped tenants to collect far in excess of the \$55,000-a-year community partners grant that was received, I see that you're not saying you helped the tenants collect anything they were not entitled to.

**Mr Krall:** That's correct. In all these cases they were illegal overcharges that we assisted the tenants in making a claim to recover.

**Mr Crozier:** So your service was helpful to those tenants because they didn't have the resources that perhaps those had whom you were making a little more honest.

**Mr Krall:** That's correct. In most cases landlords were represented by lawyers, in most cases fairly high-priced lawyers. We were just there evening the playing field.

**Mr Crozier:** Can you see this becoming even worse under this legislation than it is under anything proposed in the paper, as opposed to what it is now?

**Mr Krall:** With the exception of legal clinics, which provide very limited services in these areas because they're dealing with broad-based issues, there really is nowhere for tenants to turn in seeking help, so they will have to somehow find a way to deal with it themselves.

**Mr Marchese:** Mr Krall, the reason this government has introduced this proposal I think is to restore balance in the system because they feel that landlords have been unfairly treated and that tenants have too many rights or that the law was tipped in their favour, so they had to create some balance. Do you get the impression, in all the work you've done in the past, that somehow landlords were being undone or hurt by the policies that we put into place and that tenants had the upper hand? Do you agree with that?

**Mr Krall:** No, quite the contrary. I hear that comment from a lot of people. I think there's been some good lobbying that would get people to believe that. My experience is quite the contrary. Most tenants who came to my office were very uninformed in respect of their rights and obligations and many of them were being very aggressively handled by a landlord who knew full well his rights and quite often went far over the line.

**Mr Marchese:** I like the report card as you've done it. No one else has done it in this way and I think it's quite simple, literate. I know they disagree with you, but these are the points this report makes. You stated quite clearly how it doesn't accomplish the stated purpose of those goals.

I have another question with respect to affordable housing. Obviously they don't want to build. The private sector is not building because they can't really make any money out of it. Do you think governments should be building affordable housing?

**Mr Krall:** I believe that government has an obligation to provide affordable housing, that housing is a basic



right that should be afforded to all the people in this province.

**Mr Stewart:** Thank you, sir, for your presentation. I'm quite interested in your report card. First of all, this is a discussion paper, and second — we're hearing as we go around the province that rents have decreased with vacancy rates going up etc — I'd like your report card if you had looked at some of the first words: "protect tenants," "focus," "create," "improve" and "provide." What appears to us in these hearings is that what we have had in the past is not working. I think the key words in this report card, if we can create and if we can focus and if we can improve, will then become a level playing field for both tenants and landlords.

**Mr Krall:** I believe we have a pretty level playing field at present. Landlords who are disadvantaged by current legislation for the most part have made very poor investments that they are asking you to bail them out of. We had cases back in the 1980s where buildings were sold at inflated prices because financing costs could be passed on to tenants. Many of those landlords are crying foul now because their rents cannot be raised to the exorbitant levels that were previously allowed.

**Mr Stewart:** We hear they're going down. When I hear the stories we've heard here, and other places

around the province, of abuse and harassment and wait lists etc, surely to goodness what we have in place now is not working. We have to create, focus and improve.

**Mr Krall:** I don't believe that the directions this discussion paper is suggesting the government is moving to will do anything to address the issues you've just mentioned.

**The Chair:** Thank you, Mr Krall. We appreciate your input here this evening.

Is Mr Samuel in the audience? We will recess until Mr Samuel shows up.

*The committee recessed from 1944 to 2000.*

**The Chair:** Welcome back. The United Tenants of Ontario's southwestern representative, Vincent Samuel, has chosen not to be here on time for his appointment, so that is the last of our presenters for today.

We thank you very much, people of the city of Windsor, for coming forward with your ideas. It was nice to be in your fair city and not lose any money at the casino because we didn't have time to go there. We appreciate your input.

The committee stands adjourned until 12 o'clock tomorrow in London.

*The committee adjourned at 2001.*



## STANDING COMMITTEE ON GENERAL GOVERNMENT

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Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Bruce Crozier (Essex South / -Sud L) for Mr Grandmaître

Mr Alvin Curling (Scarborough North / -Nord L) for Mr Sergio

Mr John L. Parker (York East / -Est PC) for Mr Young

Mr Peter L. Preston (Brant-Haldimand PC) for Mrs Ross

Mr Bruce Smith (Middlesex PC) for Mr Flaherty

Mr Joseph Spina (Brampton North / Nord PC) for Mr Tascona

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**Staff / Personnel:** Mr Jerry Richmond, research officer, Legislative Research Service



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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 4 September 1996

# Journal des débats (Hansard)

Mercredi 4 septembre 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
Clerk: Tonia Grannum

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 4 September 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 4 septembre 1996

*The committee met at 1201 in the Radisson Hotel, London.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good afternoon, everyone. Welcome to the continuing hearings by the standing committee on general government relative to proposed changes to rent control. We're delighted to be in London on this beautiful summer day and are looking forward to having some input from various people in London. Everybody is allowed 20 minutes. Any time they leave for questions we rotate evenly between the three caucuses, just so you know how the system works.

## LONDON HOME BUILDERS' ASSOCIATION

**The Chair:** Our first presenters today represent the London Home Builders' Association: Joe Hoffer, the legal counsel, and Ian Lowe, the first vice-president. Good afternoon, gentlemen, and welcome. In your 20 minutes, should you allow any time for questions, they will begin with the New Democrats, assuming there's somebody here by then. The floor is yours.

**Mr Joe Hoffer:** Good afternoon. First of all, I'd like to thank you for the opportunity to appear before this committee today. My name is Joe Hoffer. I'm a lawyer with Cohen Highley Vogel and Dawson, and our firm is legal counsel to the London Home Builders' Association. Seated beside me is Ian Lowe, first vice-president of the London Home Builders' Association.

The London Home Builders' Association was formed in 1952 and has a membership of 218. The membership is made up of builders, land developers, renovators, housing industry suppliers, apartment owners and managers and numerous other small businesses which provide a broad range of services to the housing industry. We wish to highlight for this committee that the constituents of the London Home Builders' Association are not just involved with the industry requirements of people who own their own homes. This association's constituency also involves people who service the rental housing industry and who have a direct interest in the policies and legislative initiatives which are now being formulated by the province in connection with residential tenancies laws.

I have distributed a written presentation which I'm going to pretty much stick to as part of this. It's essentially divided into building a case for the need to amend the proposed policies which are contained in the discussion paper and then a series of recommendations for amendment which the home builders' association pro-

poses be made to these policies in an effort to encourage construction and renovation in the rental housing sector.

The consensus among home builders' associations across the province is that the long regime of rent control, which has continuously existed in Ontario since 1976, has had severe negative impacts on the home building and housing industry. In a community like London, there's very little incentive for the construction of new rental units. We recognize clearly that there are economic and demographic reasons for that, but rent control is a major barrier to the construction of new rental units. Landlords and owners of property have to make a 20-year investment, and in a legislative regulatory system where you have changes in political parties and changes in legislation every four years, there's too much uncertainty to believe they won't be affected by rent controls somewhere down the line.

The main concern that we wish to address today, however, has to do with the impact of the policies that are contained in this discussion paper on the potential for employment in the construction industry: employment in renovation, retrofit and rehabilitation of existing housing stock.

Right now London has lots of supply, but what's needed and what would create immediate employment in London would be the opportunity to engage in construction and renovation projects. That type of work stopped in 1990 when the NDP passed Bill 4. There was a lot of work under way, and it came to a standstill. Bill 4 and the Rent Control Act have left virtually all renovation and owner-driven construction at a standstill since, and it's hoped the new legislation proposed by this government would encourage owners of buildings to get out there and start building again. There is a pent-up demand for that type of work within a narrow sector of the apartment industry.

We've looked at the policies that are proposed and we've asked whether these policies will encourage owners to invest in existing housing stock and create much-needed employment for the construction sector. In our view, the answer is that these policies will not have that effect. The reason for that is that the decontrol/recontrol proposals, particularly in a soft rental market like London's, will mean that an apartment building owner will be restricted to limited annual increases regardless of the size of investment in the rental property. Even if the landlord receives an order for an above-guideline increase, in a soft market like London's the benefit of that order will be lost for rental units which turn over any time after the order issues.

Suppose I get an order that gives me a 4% increase above the guideline, and two months after that order is to



take effect, a tenant moves out and I can't realize the benefit of that 4% increase or a market increase that exceeds that 4% that I got in the order. I've completely lost the benefit of that order because I'm back into a recontrol situation and I've rented out in a soft market. As an investor, I'm not going to be inclined to make that kind of investment in a market like London's.

If, on the other hand, I have an assurance that maybe not today but in three or four years I might be able to catch up and take the benefit of that order, I might be more inclined to do it, especially because labour rates are much better today; maybe the market will turn around in future. I'll go ahead and make the investment. With the policies that are in place in this discussion paper, it's very likely that the owner won't do that.

A second point is that if a substantial investment is made in renovating a residential complex, a building owner will have to increase rents to the maximum permitted by the legislation each year or forever lose the right to take an increase so long as the existing tenant remains in the unit.

The policies proposed in this legislation, because they propose to do away with maximum rent, mean that a landlord either on turnover of a tenancy or with a tenant who's already at maximum will consistently have to try to take the full benefit of the annual guideline increase or the ordered increase; otherwise they will completely lose the benefit of that order or of the annual statutory increase. They won't be able to catch up in future.

What you've done with these policies is you've put us back in the situation that landlords were in between 1976 and 1985 where they couldn't catch up in a soft market. In a place like Toronto it probably doesn't matter, but just about everywhere else in the province it is a big issue. After all, you are governing in respect of all of the province.

The third point is that the retention of strict rent control policies creates uncertainty for building owners who are considering making a 20-year investment in their building. It was hoped when the discussion paper was announced that there would be some relief from strict rent controls. That hasn't happened, and that creates uncertainty for buildings and investors. They tend to stay away from an environment where every four years they're subject to new and retroactive legislation.

The other point I would refer you to is that the Lampert report, which I'm sure you're all familiar with, recommended that this legislation or that housing policy generally move towards ultimate decontrol. There are none of those features in this legislation. It's not clearly transitional. The perception of the legislation is that it would be open to any government in future to simply reintroduce rent controls and do away with the decontrol features of this legislation, so that uncertainty remains. It is hoped that you would revisit the recommendations of the Lampert report and move more towards a transitional phasing out of rent controls over the longer term.

1210

The recommendations by the London Home Builders' Association with respect to the proposed legislation:

(1) Retain the concept of maximum rents so that landlords who rent units in a soft market will have the

opportunity to catch up if and when the market improves. Retaining the concept of maximum rent will also make it easier for landlords to forgo a rent increase in a particular year with the prospect of possibly catching up at some later date. It's the way it works in at least 70% of the market in London today, which is effectively decontrolled. If you keep the maximum rent concept, it will continue to work that way. If you eliminate the maximum rent concept, landlords will be forced to take an increase every year.

(2) Allow landlords and tenants who wish to negotiate with each other for improvements to their rental unit or to a residential complex to agree on an appropriate rent chargeable for the unit. If people want to agree to something, why can't they do it? It's possible to put safeguards in place to protect the tenant from duress or whatever other allegations might be made. Once that agreement was reached, if it exceeded the existing maximum rent, it could form the basis for a new maximum rent, again so the landlord isn't put in the position of having to increase every subsequent year thereafter and can catch up somewhere down the line.

(3) In terms of the dispute resolution system, ensure that disputes are resolved by knowledgeable, experienced and independent decision-makers in an expeditious fashion so that landlords and tenants are not saddled with the burden of lengthy hearings and the uncertainty which accompanies any prolonged legal dispute.

(4) Ensure that any rent control provisions will permit the investor to recover the cost of building improvements and renovations even though that recovery may not materialize in the foreseeable future. Back to the example I gave you earlier, an owner says today: "I can't get 4% or 6% or 8% even if I do all of this work, but I see the prospect maybe in four or five years of getting it. I'll take the risk." But if this legislation goes through, the landlord or the owner is not in a position to take that risk because there's going to be turnover in the building. He can't predict what the turnover will be, but when that turnover occurs, the benefit of the order will be lost.

Finally, the proposal for the repeal of the Rental Housing Protection Act is viewed by the industry as a positive step towards encouraging renovation, recycling and alternative use of buildings. The London Home Builders' Association supports the repeal of the Rental Housing Protection Act and the introduction of measures that will ensure that sitting tenants have security of tenure and opportunities to participate in the revitalization of their homes.

I really don't have anything else to add. There is a portion in the written submission that I've given you which deals with related regulatory changes. We would ask that you review those recommendations. They mirror or pretty much are consistent with the recommendations by the provincial organization of the home builders' association. I'd ask that you review them if you have the opportunity because those other related regulatory changes are required in order to encourage people to invest once again in the rental housing industry.

Those are our submissions and we'd be happy to take questions.



**The Chair:** Thank you, Mr Hoffer. We've got two minutes per caucus for questions, beginning with Mr Marchese.

**Mr Rosario Marchese (Fort York):** Mr Hoffer, you're representing the home builders and you're speaking again, I understand, at 1 o'clock to represent the other law firm as well?

**Mr Hoffer:** At 1 o'clock I'm speaking to present the views of a practitioner of law. It's really a different perspective.

**Mr Marchese:** I'll wait for that perspective at 1 o'clock then.

**Mr Hoffer:** I'm glad you'll be here.

**Mr Marchese:** Yes. Oh, definitely I'll be here for you.

There are people who are not paying at their maximum rents, and I'm not sure what the situation is in London but I suspect that a lot of landlords are not charging at that level. Is that correct?

**Mr Hoffer:** That's correct.

**Mr Marchese:** Would you say that decontrol is likely to increase rents for many tenants, however?

**Mr Hoffer:** No. It shouldn't have any effect. At least 70% of the market right now is effectively decontrolled in London, so —

**Mr Marchese:** Decontrolling would allow the landlord obviously to raise rents, but as far as you're concerned, rents are not likely to go up because they're not charging up to maximum legal rents anyway. So effectively we shouldn't have any problems on them?

**Mr Hoffer:** Some rents are going to go up and other rents are going to come down. There'll be an adjustment. The history of decontrol in the past has had that result. In units where there are depressed rents, which are below market, those rents will go up. But someone is going to have to compensate in the sector of the market where rents are high, if you like, and those rents will probably come down.

**Mr Marchese:** Do you think we have a big problem in terms of some buildings where there are individuals who are paying very little and that decontrol is likely to get at that problem? Is that what you're thinking?

**Mr Hoffer:** No. I think the problem is that you have situations where people are paying rent which is well below market and well below what they can afford, and you have owners of those buildings who are unable to make any meaningful capital improvements to those buildings because they'll never see a return under the existing rent control regimes. That's where the problem is.

**Mr Bruce Smith (Middlesex):** Thank you for your presentation this morning. For the last two weeks we've heard a great deal about the issue of affordability, and to a certain extent the issue of supply. By and large, the two have been addressed in the Toronto area, whereby there's an affordability issue and a supply problem. In many other areas of the province it seems to be an affordability issue and, as you've mentioned here in London, the supply issue isn't as great.

Yesterday in Windsor we had a presentation where an individual suggested to us, albeit not in the paper — I want you to specifically address the issue of government intervention, which my colleague opposite has very well defended over the last two weeks. In Windsor we found

that single-family dwellings were being built at a cheaper price than government-subsidized units. In your view, has that been the experience here in London, or can you comment on that at all for me?

**Mr Hoffer:** The only comment I can make with respect to government-subsidized units is that the general consensus is that where government subsidies have been given, both in the construction of units and in the ongoing management of the units, the cost is phenomenally higher than it is for private accommodation. I think there isn't a landlord in London who wouldn't gladly take the benefits that subsidized managers and builders are receiving over what they're getting in the marketplace.

**Mr Smith:** We also have heard a great deal about this \$10 billion of maintenance that's required, and you alluded to the fact that if appropriate provisions are in place, that could have some economic spinoff, employment spinoff. A lot of tenants have raised concerns that they've already paid for that. In your opinion, have landlords in this province put the money in their pockets and run with it?

**Mr Hoffer:** Not at all. If you look at the rent increases that have occurred in London, the province has allowed, for example, for statutory increases every year. In London landlords haven't been able to take those increases. To some extent they've had to take, if they could, savings from decreased interest rates and plow that into maintenance. In other cases they've had to eat the cost of the maintenance themselves. You'd be hard pressed to look at the London market and point to problems with their maintenance.

What I was talking about in my presentation and what's needed in order to stimulate the construction sector are the conditions where a landlord could recover the cost of capital improvements. I'm talking about new fridges and stoves. I'm sure the landlord would much rather put in a new fridge and stove than have to send the maintenance man up there once a month to repair the thing.

**Mr Alvin Curling (Scarborough North):** Very interesting. Thank you for your presentation. I'd have loved to follow through on that, but there are some other pressing questions I want to ask you. Are you aware of how many people are on the waiting list for housing whose incomes are below \$20,000, in other words, who are having problems of affordability?

**Mr Hoffer:** I'm not aware of it offhand but, as I understand it, the municipality here does keep statistics on affordability and that London has a very high affordability rate.

1220

**Mr Curling:** How long would it take, if rent control goes, were wiped out, for you to build for those people at that end of the market?

**Mr Hoffer:** Well, if rent control were eliminated, first of all in London it may well be that the supply is here. I don't know how many people are doubled up; I don't know how many people are staying at home rather than moving out into the marketplace. But if rent control were abolished altogether, certainly that would encourage people to build. Whether they do it or not would then depend on demographics and what they thought they



could get by way of return. But in a place like Toronto there would be no problem. You'd see a lot of building going on.

**Mr Curling:** In your paper you talk about demographics and economics, and I thought that somehow you'd know those people at the bottom end and would say, "Well, you might have to wait six or seven years before we really come to deal with you folks at that end of the ladder," but you said you're not quite sure how long.

**Mr Hoffer:** I've never seen a study that would support that premise. You have a very simple situation in London. You have an oversupply of rental accommodation. The official vacancy rate is 4%; that's the CMHC-reported rate.

**Mr Curling:** But as an average, though.

**Mr Hoffer:** The real vacancy rate is probably higher than that. When you say there are a bunch of people waiting to move into rental accommodation, I don't know how many people there are or if there are any. I've never seen anything to support that. There may be people on waiting lists for subsidized housing. That doesn't surprise me.

**Mr Curling:** Those are the ones we are concerned about.

**The Chair:** Thank you, Mr Hoffer and Mr Lowe. We appreciate your input here today.

**Mr Hoffer:** Thanks for the opportunity to appear.

#### NEIGHBOURHOOD LEGAL SERVICES, LONDON AND MIDDLESEX

**The Chair:** Our next presenter, a presentation that I'm personally looking forward to, is from Jack Carroll, a volunteer with Neighbourhood Legal Services. Good afternoon, sir. Welcome to our committee. The floor is yours.

**Mr Jack Carroll:** Thank you, Mr Chairman. In addition to being a lawyer, I am a registered professional engineer and I taught computer science for about a quarter-century.

What I'm talking about today is a structure for settling disputes arising from residential tenancy. Residential tenancy is a market transaction, and we grant that the landlord should make a fair return on his investment, but also that the tenant who is paying several hundred dollars a month for accommodation should be treated as a valued customer. Unfortunately in any market transactions disputes are going to arise. The objective of this government, as stated in its discussion paper, is to settle those disputes efficiently and fairly. There is talk of fairness. We don't want to see landlords turning tenants out of their homes just because somebody is able to pay more rent, nor do we want to see a tenant living rent-free anywhere from six weeks to six months while legal manoeuvring goes on.

The system I'm talking about today is modelled a little bit after the Swedish court system. I have here today behind me Dr Stewart Kowalski, associate professor at the University of Gävle.

On the second page on my submission is a block diagram of how this system would work. If you notice, at the top I have the Minister of Municipal Affairs and

Housing. You might like to see an independent commission, and there's no reason there couldn't be an independent commission except that it would cost the Ontario taxpayer from \$2 million to \$3 million a year to put it there. From a philosophical point of view I like to see the government carry the can for what it does and leave it to voters to reward or punish them at the polls.

The key person in this system is the director, although the director has the power to delegate anywhere within the system. We're going to allow this person to lay charges in provincial court for offences that are spelled out in the new Landlord and Tenant Act or the tenant protection act. We're also going to allow him or her to launch actions or defend actions in General Division court, where these actions stem from a judgement of a tribunal, and to go to Divisional Court if one of the adjudicators needs additional power such as to state a case; in other words, a contempt citation, an injunction, a writ in the order of mandamus or prohibition, for example.

The heart of the system is a panel of adjudicators. These will be legally trained individuals holding office for, let's say, five years and subject to reappointment. There would be maybe 20 to 50, depending on the caseload.

As a new feature — this is derived from the Swedish court system — we would have a panel of assessors. These assessors would work and be paid only when they're appointed to assist an adjudicator or nominated to sit on a panel part-time. They would be lawyers, tenant advocates, businesspersons, engineers, architects, city planners. There would also be a list of mediators that would be maintained by the senior adjudicator in each region.

On the next page we start talking about what the procedure would be. The piece of bologna there is either the beginning or the end. The box is an action that's taken. The diamond is a question that has to be resolved.

The first step we have is an application to the director to be made either by a landlord or by a tenant. The director appoints an adjudicator to handle the case. These adjudicators are legally trained and have some experience in handling landlord-tenant matters.

The adjudicator decides if he needs expert advice, and if he does he will appoint an assessor with the requisite skills. He might have an engineer in to look at the structural characteristics of a building. We would avoid having the litigants bring their own expert witnesses and having two engineers get into an argument over whether the plumbing needs to be fixed.

Then we would have an exchange of documents. I don't mean anything exciting here; I mean leases, demands for payment, rent receipts, inspection reports, photographs and things like that — copies to each of the parties and a copy to the adjudicator. These are the preliminary matters.

Then we go into solving the dispute. We try to do it as quickly as possible and to each party's satisfaction in so far as is possible. First of all, is there a default? If there's a default but documents are being submitted, then the adjudicator can decide based upon the paper. No one has to come to the hearing actually.



The next step is mediation, but not compulsory mediation. Both parties have to agree on a mediator, all have to agree to go to mediation and they both have to agree on a mediator from the list maintained by the senior adjudicator in the region. If that succeeds, go away. The problem is settled.

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Now we get to the disputes. If we have a question of law, the mediator can settle the dispute arbitrarily, either alone or with the advice of a legal aid-trained assessor he has appointed to assist him. However, if we have a question of mixed law and fact, then and only then do we go to a hearing. At the time we go to a hearing, each party will have the right to pick an assessor from a list of assessors according to his curriculum vitae. We have then a three-person board and we go to a full board hearing in which the general rules of public law will prevail.

The savings on the efficiency of a system like this are that you first seriously consider mediation. To my mind, there are a lot of things that can be mediated and resolved in a landlord-tenant dispute: time payment of arrears, appointment of a guarantor, cooperation on repairs — the landlord supplies the material, the tenant does the work. We have to investigate all of those avenues and I've a whole list of the things that could be suggested here. Then if the mediation fails for one reason or another, we go into a pre-trial conference and maybe we can settle it there.

The adjudicator would be clothed with almost all of the powers of a General Division judge sitting in landlord-tenant court. He couldn't hold somebody in contempt, but then he could have delegated to him by the director the power to ask the Divisional Court to do that. But hopefully we would have very few disputes that would go to a full board hearing. I have not addressed who would pay for the assessors in the full board hearing. I'll leave that up to you gentlemen if you wish to incorporate any of these ideas in your coming legislation.

I'd like to take questions on this at this time, if anyone has any.

**Mr John L. Parker (York East):** Mr Carroll, thank you very much for appearing today and thank you very much for your submissions. Let me begin with the observation that the minister's discussion paper puts forward the proposal that a new mechanism be put in place to deal with landlord-tenant disputes and that such disputes not be left entirely to the courts.

We've received a number of deputations on that point, mostly people saying they like the idea or they don't like the idea. What the minister asked for was for some ideas to put some flesh on the bones of the minister's proposal and I think you're the first person who's done that for us, so thank you very much for that. I appreciate the model you've developed here and the recommendation that you've made for us here.

I'm very intrigued by the flow chart diagram that you've developed, outlining the steps in the procedure. For me it would be useful to have a matching flow chart just outlining the steps that are involved in the current system, and I'm just trying to imagine in my mind what such a flow chart would look like. Maybe you could just

guide us. Would it have more boxes in it or fewer boxes in it, if we were to take the present system and map it out?

**Mr Carroll:** It would have fewer boxes. In the present procedure you have an eviction, let's say his landlord has to serve a form 4 and wait out the time, and then there's a form 7 and there's a hearing before the deputy registrar. Then there's the long wait for a hearing with a General Division judge and possibly even an appeal to Divisional Court after that.

**Mr Curling:** Thank you very much, Mr Carroll, for your presentation. Putting this down as a flow chart gives me an idea where you want to go and what you want to accomplish. I don't know if this is putting you too much on the spot to ask you what kind of cost this would have incurred, if these costs would be greater than what exists now through the Ministry of Housing. That's one question I would have, and maybe you don't have that cost factor, the amount it would cost.

The other question I have is the appointment process. Who would be director and who would be appointed to these boards?

**Mr Carroll:** I would say the director should be appointed by the Lieutenant Governor in Council.

**Mr Curling:** It's a political appointment then.

**Mr Carroll:** Yes, and should serve at the Lieutenant Governor's pleasure.

**Mr Curling:** What that really states is that these appointments will be made by political appointment by the Premier or by the Minister of Housing, and how fair that would be. There are concerns that sometimes these things are stuck in any way. Is there any advice you could give us, if this was being implemented, as to what advice the Lieutenant Governor would be acting on in order to get these appointments to be placed on these boards?

**Mr Carroll:** You're talking about the director, or the adjudicators as well?

**Mr Curling:** Anyone who is appointed by the Lieutenant Governor in Council.

**Mr Carroll:** The director would be the only one directly appointed by the Lieutenant Governor. The adjudicators would apply to the director and he would make the appointment with the advice of a panel of adjudicators.

**Mrs Marion Boyd (London Centre):** Thank you very much for coming forward with your suggestion. I know how complicated the situation is under the current two pieces of legislation for both landlords and tenants. I think what you're trying to do is come up with a procedure that streamlines it for the benefit of both.

I'd like to refer to something you didn't talk about, which was your overview of how the system would be run. One of the points you make is that this would only work if the director that you've identified in this, the director of tenant protection, had the right to lay charges under the Provincial Offences Act for harassment, and you give a great list of the numbers of kinds of harassment that you yourself have observed during this time. I think that's something that we hear from tenants all the time, that if you deregulate rents then the harassment



issue for tenants to get them out of there so rents can go up when that place is re-rented is a real issue. Do you see this as a way of stopping that kind of harassment?

**Mr Carroll:** The ideal situation is for the landlord to treat the tenant with dignity and for the tenant to treat the landlord's property as if it were his own.

**Mrs Boyd:** One of the comments that has been made is that if there were some guarantee to landlords that whatever the process is in the long run they would not be out any money, they would not miss these months of rent that now they may miss while they're tied up in the process, they would be nicer to their tenants. Is that just wishful thinking?

**Mr Carroll:** No, I think it could very well work out that way, if this kind of procedure would work, and I think it will.

**The Chair:** Thank you, Mr Carroll. We do appreciate your input here this afternoon.

**Mr Carroll:** Thank you, Mr Carroll.

1240

#### PERSONS UNITED FOR SELF-HELP LONDON

**The Chair:** Our next presenter represents PUSH, southwest London, I believe, Bonnie Quesnel and Steve Balcom. Good afternoon and welcome to our committee. The floor is yours.

**Miss Bonnie Quesnel:** Thank you very much for allowing me to come and make a presentation this afternoon.

Issues surrounding proposed dwelling rental amendments: Persons United for Self-Help has been actively striving to establish equity for persons with disabilities over the last 14 years. We understand better than most the desperation that individuals with disabilities face when system changes leave them sliding through the crater-sized cracks. This is occurring even now in the transportation sector, as subsidies for accessible taxis are being cut. Londoners with disabilities are facing the possible loss of these vehicles. The private sector and market forces do not make it profitable to provide specialized services such as these. Is this an example of what will happen to accessible housing in the future?

Currently these individuals contact us regularly, expecting us to perform magic to make the system and their lives right again. In the past assistance was possible, because we knew that legislation or policies addressed most relevant issues, if you looked hard enough. This kind of knowledge or magic is getting more difficult to find. We have looked at the shifting definitions, responsibilities, accountability and resources, and see that the fragile and the disabled are being forgotten, overlooked or ignored. Programs that were initiated to create a safety net for the vulnerable are being lost in the frantic shifting spree. This kind of shift does not create long-term resolutions. This kind of shift only hides the problems where light and remedy never reach them.

The residents' rights: The Residents' Rights Act provides protection from arbitrary evictions for tenants with disabilities and others. The current act acknowledges differences and separation of housing issues and support services issues. The New Directions discussion paper pro-

poses changes which would merge the two distinctive elements, and in so doing, eliminate all existing protections.

A major privacy loss is reflected in the recommended absence of the need for 24-hour notice of a landlord visit. Landlords would be able to enter a unit any time between 8 am to 8 pm. Care home tenants face even more compromised guidelines. The potential for institutional-type bed checks has already been identified as a potential community service-based abuse.

Rent control: The lifting of the rent controls would do more to establish pockets of ghettos in Ontario than any other piece of legislation ever has. People with minimum incomes, people with disabilities and other disenfranchised groups will dig in, no matter how bad a situation they are in. They will have no option. They will not be able to afford to move.

Harassment techniques may be utilized by landlords eyeing larger profits. Increased fines may be seen as Stop signs for harassment, but intimidated tenants may not be forthcoming with harassment complaints. We all know the personal risks involved in making such complaints. Do you risk your reputation or your home against those who can afford lawyers and advisers?

Care homes: In 1995, all people who occupied rental units were included under the Landlord and Tenant Act. This successfully closed one of Ontario's major system cracks. Previously, units where support services were provided had been exempt from such coverage. These same types of units are now identified as care homes. Care homes are subject to many exceptions to the currently proposed system rules:

Landlords may transfer residents to alternative facilities when the level of care changes. Who makes that decision and what is their vested interest? This would be a useful tool to intimidate those complainers I referred to earlier. Imposed transfers would be dangerous to the individual and his or her personal rights. Only the most vulnerable will experience the brutality of this unrestrained abuse of power and control.

This proposed amendment also violates the provision for individual consent by persons being admitted to care facilities, as outlined in the Health Care Consent Act.

While adequate protections are mentioned in New Directions, none is specifically identified. I have just cited a good example of this.

Housing providers and service providers are not always the same entity. New Directions assumes that the two positions are the same. Given your assumption, would landlords not involved in the provision of service to a person with disabilities have new powers to transfer or assess the individual's care needs?

Individuals' right to risk, right to choose and right to exercise independent decision-making will be seriously compromised by this legislation.

The tenants' bill of rights may offer some protection to people with disabilities, but it's not enough. It is not the same protection that the individuals sitting around this table have or would be willing to have.

The separate fast-track evictions proposed for tenants living in care homes put people with disabilities in peril. There is no evidence that tenants living in care homes are any more likely to threaten other tenants, and there are



provisions under other legislation to deal with immediate threats. Why treat us differently? Would we have the right to the same type of hearing as under the ordinary eviction process? How can you prevent care providers from dumping nuisances, complainers and those who are not easy to serve from care homes? If evicted from a care home which an individual requires, where will he or she go? Is the London mental hospital big enough, or do you have another plan? People only disappear in government statistics.

Current legislation establishes a process that care home landlords must follow before they convert, renovate or demolish a building. This ensures that alternative comparable housing is available in the community. Your proposal does not explain or give details about the process for obtaining alternatives, nor does it say anything about the quality of the alternatives.

In closing, financial and physical access for people with disabilities is marginal and limited. The proposed changes will only make the situation worse because market forces will not meet the needs of those who require more for less. Those with little income, those who require physical access, those with social and emotional needs, will not find accommodation in your Ontario and will be the first to be evicted by landlords on your fast track. It sounds like a fast track to nowhere. We suggest you keep the current legislation in place. Thank you.

1250

**Mr Curling:** Thank you for your presentation. One of the things I'm hearing as we go around the province and listening to all the presenters, they have stated that they felt the policy the government is developing is done in isolation; as a matter of fact, the consultation process was not quite open in the sense that they have based their New Directions paper on Greg Lampert's report, who consulted developers and landlords and home builders.

I may be wrong on this, so may I ask you this then: Did the minister consult with you in the preparation of the new direction in which he intends to go?

**Mr Steve Balcom:** To the best of my knowledge, no. One of the presumptions is that persons with disabilities are going to be protected because we are one of the few "populations" that will have access to subsidized housing. So it was a presumption on the Conservative government's part that there was no need to consult. Nobody even offered us any input or even thought that we would need any input or have any input, for that matter.

**Mr Curling:** The other areas too, not only of consultation with the people who have a vested interest in homes, like yourself and developers and home builders — I would say they do have an interest too and they should have an interest — that seemed to be lacking as you read the New Directions, it seems to me, the government did not consult with its own ministries, like the Ministry of Health and the Ministry of Community and Social Services. Did you see a lack of that in the paper?

**Mr Balcom:** Definitely, and I'm glad you brought up that point, because one of the recurring themes that has been going on since this government took power, you have to look at — again, when you're talking about people who are marginalized, as with persons with disabilities — the cumulative impact of what's been going on in

the last year. So you can't necessarily look at housing or rent geared to income in isolation from the Ministry of Health initiatives or MCSS initiatives, because they all potentially impact upon each other. Time after time after time, after every presentation that we and others have taken part in, it's plainly obvious that this government has not even communicated with its own ministries to see what potential impact existing legislation is going to have. This is just another example of the obvious.

**Mr Marchese:** I want to thank you both for your presentation and say to you that there have been many people like yourselves, and people in the whole field of concerns around disability, mental illness and other vulnerabilities, who are concerned about what's contained here because of the potential for abuse.

The care operators have come and have all agreed that these proposals are very good, that what's here in terms of transferring residents and fast-tracking and converting and renovating or demolishing facilities is something that they see as very useful. You, on the other hand, have come here and said, "We're worried about the potential for abuse."

One organization has come in front of this committee and said, "We have seen no evidence given to us by any care operators as to why it is that they need any of these provisions." So, to the present, the only thing care operators have provided is hypothetical instances of why it is they might need to be able to transfer somebody or to be able to, in terms of privacy, enter into someone's room, and the like. Why is it, if they tell us they are only concerned about you, that they really care, that you are worried about this?

**Mr Balcom:** The easiest answer I can give you is past experience. That's the most direct answer I can give you. History has proven differently and I dare say that history will indeed prove us right. Because when you look at the presumed benevolent nature of our supposed "care-givers" — and I use that term very loosely — with all the best of intentions, what you are setting us up for and many other groups who are vulnerable is the — I don't even like to use the word "potential" for abuse because I know it's going to happen. The reason I know it's going to happen: There have been enough consumers who have been in those situations, which was the whole rationale behind the Advocacy Act; there was enough history there — and I don't want to get into that issue because it's another issue, but the need for protections is clear and it's real. Once you give service providers and operators of care homes — and I don't even like that word because it's one step away from institutional, just in the very nature that's it's used and it's intended.

The point I want to make is, presumptions are made: "You need help doing this. You should do this." My gut response to that is, who makes those decisions? Who is the individual or individuals, plural, who are supposed to be making those decisions on my or other people's behalf?

**Mr Bart Maves (Niagara Falls):** Thank you for your presentation. Just quickly, to Mr Curling's comments about consultation, I'm aware that the minister has met with Advocacy Resource Centre for the Handicapped, Advocacy Centre for the Elderly, Canadian Mental Health



Association, Ontario Association of Non-Profit Homes and Services for Seniors and several other groups on these care home provisions.

In part of your paper you talk about the bed checks. On page 11 of our discussion paper they provide an example of someone with a serious heart problem who wishes to have staff look in on him at night. Contrary to Mr Marchese's comments, I think we have heard people from care homes who've talked about occasions where they've had a need to go into people's rooms. In your opinion, is there ever an occasion where something like this is necessary and is there anything we could put in place to safeguard abuses such as the tenant initiating a certain bed check and agreeing to it beforehand?

**Mr Balcom:** Again, we're talking specific instances. I'm sure there are individual instances where an individual may indeed want that to happen. But, again, treat that as an individual case: You have an individual agreement with that individual about when they went into the premises, under what circumstances they were to enter the premises, and I would think out of respect in due course give a copy of an agreement to the tenant as the tenant, and the service provider would have a corresponding agreement. It's just like a contract.

**Mr Maves:** So it would have to be —

**Mr Balcom:** Spell it out.

**Mr Maves:** Cases could be there but it should be spelled out and strictly enforced.

Another comment you made was about transferring, and the paper says, "Transfer residents to alternative facilities when the level of care needs change, subject to appropriate protections." We've had care homes say that attending physicians should agree first before there's any kind of transfer. Would you agree with that or are there other types of protections?

**Mr Balcom:** Like I said, who's making the decision? Again, this isn't rocket science, folks. If I'm in a care facility and my needs change I would think, out of respect and the right to dignity and privacy, that I should be the first one who gets spoken to; again, individual instance, where health care professionals are deemed necessary, not just in isolation with a specialist or even a GP making the unilateral decision on my behalf, but in conjunction with the individual with the disability. Then you bring in the individuals who are necessary. But you don't presume to know and make decisions on behalf of anybody.

**The Chair:** Thank you, Miss Quesnel and Mr Balcom. We appreciate your input here this afternoon.

1300

#### COHEN HIGHLEY VOGEL AND DAWSON

**The Chair:** Our next presenter, on behalf of Cohen Highley Vogel and Dawson, is Joe Hoffer. Welcome back. Any time you allow for questions would begin with Mr Marchese again. So the floor is yours.

**Mr Hoffer:** Good afternoon once again. I indicated earlier that I'm a lawyer practising here in London, Ontario, and I've been practising in the area of residential tenancies law since 1986. I've worked with the Residential Tenancies Act, the Residential Rent Regulation Act,

Bill 4, the Rent Control Act, and have had some experience in dealing with those statutes in addition to the Landlord and Tenant Act.

I asked for this opportunity to address the committee from the perspective of a lawyer who practises in this area and in the hope that I could provide some constructive suggestions for changes to the proposed policies.

I want to deal with three areas: first the proposal in the discussion paper to abolish the concept of maximum rent; second, the dispute resolution process; and third, some substantive landlord and tenant issues.

In terms of the proposals to abolish maximum rent, as a practitioner, when the Residential Rent Regulation Act was put in by the Liberals, I provided advice to clients, pointed out what the concept of maximum rent was, pointed out that they could bring an application, they would receive credit for that under the formulae provided under the legislation, and even if they could not collect those rents in the marketplace, there was a cushion that some day in future they might be able to collect those rents.

Many landlords made substantial capital improvements to their buildings, undertook rehabilitation work in buildings that were older and obtained such orders. A large number obtained orders or had done the work, expended many hundreds of thousands of dollars, and then the NDP came in and said, "Those orders are void and everything you've done is basically meaningless." Some of these landlords, under the transitional provisions of the Rent Control Act, applied again. The theory was, "Even though you're not going to get very much of a return, the legislation does recognize a return for certain capital improvements and you will be given credit in your maximum rents." I have some landlords, clients who went out and twice obtained orders under legislation, and with these proposals they're again going to lose the benefit of maximum rent. When any tenant who's living in that unit moves out, the landlord re-rents in a soft market and the benefit of the maximum rent they got under those last two orders is now void.

It's very frustrating to give advice in that environment. It's even more frustrating for investors who are trying to make a decision whether to invest in a property, when every piece of rent control legislation that comes along seems to have this retroactive voiding effect of any benefit of the legislation that went before.

I have looked long and hard at the discussion paper and at some of the policy background. I cannot find anywhere any public policy rationale for the proposal to eliminate maximum rent. There's none in the discussion paper. There's none anywhere that I found in the material. There are no economic reasons given as to why maximum rent should be abolished. I suspect this is entirely driven by bureaucrats in Toronto where the expectation is that when you move to decontrol, the rents are going to go up. That's a Toronto mentality. If you're in the rest of the province, you'll find that we are basically decontrolled and rents either stay the same or, if you're dealing with a tenant who's been in an apartment for 10 years, the rent may well go down when that tenant leaves because the landlord has been increasing the rent over a



number of years and can't charge the same rent in the open market.

There are administrative reasons which have been given to abolish the maximum rent concept, namely, the cost of the rent registry system. The simple fact is that if you tell every landlord what their maximum rent is, which is proposed in this discussion paper, then the landlord has to keep that record. Rent control has files on every unit in the province. There's no reason why they can't keep a copy of that, and if 15 years down the road somebody needs to know what the maximum rent is, the onus can be on the landlord to establish it. That's been done for many years; since 1976 that's been done. We don't need a rent registry to preserve the calculations or to preserve the methodology for determining what maximum rent is.

I've given you a written presentation. I ask you to review it on the subject of maximum rent and to have regard to some of those comments when formulating or revisiting the notion of getting rid of maximum rent.

In terms of dispute resolution, as a practitioner I'm opposed to the transfer of the procedural and administrative processing of landlord and tenant disputes from the court system to a separately constituted tribunal. The existing court system has offices in most major communities. They're already there. The system is in place, the forms are there, the staff is there, and I cannot understand why you would take that infrastructure and put it into an entirely new system of infrastructure. You're going to need offices. If you're going to deal with landlord and tenant matters you're going to need more offices than you have rent control offices today. You're going to need staff. Are you going to take staff from the court system and put them in this new system? Really what you're doing is duplicating an existing service with the proposals for this landlord and tenant dispute resolution system. So as both a practitioner and a taxpayer it makes absolutely no sense.

I recognize, however, that that's the proposal, and if it does go forward and a new system is created, I urge the committee to recommend that the policies be formulated in such a way as to preserve the basic structure that exists so that disputes are dealt with quickly. Right now in the court system the vast majority of disputes are dealt with very quickly. It's only those few cases that go over to a hearing that tend to have adverse consequences, but they're a relatively small number. If you preserve the basic steps — the first meeting in front of a registrar or whatever you want to call that person — and then put the matter over to a hearing if there is a dispute, you'll still deal with landlord and tenant disputes fairly efficiently.

In terms of appeals, I've made some recommendations in the paper. I don't intend to go into them in any detail here.

The last area I want to deal with is what I would call loopholes in the existing landlord and tenant legislation, and I would ask this committee to make recommendations to close those loopholes.

I've attached to the written presentation three case studies that deal with loopholes. I'll deal with them in order, starting at page 9 of the paper that I've given you.

First there should be a mandatory requirement in this legislation that rent arrears be paid into court as a precondition to the hearing of a landlord and tenant dispute. There's provision for that in the Landlord and Tenant Act now, but registrars have a wide discretion as to whether or not to require payment of arrears into court, and it's often ignored. As a result, by the time you get to a hearing three or four months down the line with a tenant on whom you're not going to be able to enforce the judgement, the landlord has lost three or four months of rent for absolutely no reason in circumstances where there is no dispute. If you require that the arrears be paid in, then at least you're not going to have a situation where people are able to abuse the provisions of the legislation and buy themselves three or four months of extra time.

The second recommendation is to strengthen the assignment and sublet provisions to ensure that disputes are resolved quickly. I think it doesn't take a genius to anticipate that if this legislation goes forward, the assignment and sublet provisions will be critical and there will be a need that any disputes over assignments or subletting are resolved quickly. There is provision under the Landlord and Tenant Act now to deal with that. The new legislation should fast-track those kinds of disputes similar to eviction disputes so that there isn't uncertainty for a long period of time about assignment and subletting.

I've given you an example of how the system existing now can be used really as a loophole to avoid any determination of assignment and sublet issues for some months. The case I've given you deals with a crack dealer who illegally moved into an apartment, terrorizing the tenants and the landlord, and because of the way the existing system works, it could have taken up to two months to get the person out. Fortunately when I pointed out to the representative of, I'll call it a community legal aid clinic, that this was going to be one of the examples I would use in a presentation to this committee, that lawyer just walked away from the thing and we were able to bring an application quickly and get a decision from the court evicting the tenant.

#### 1310

The third case study involves the provisions of the legislation right now which allow tenants to set aside a default judgement without any notice to the landlord. The way this loophole works is that the landlord brings an application to recover arrears of rent, gets a judgement because the tenant doesn't dispute it at all, and after the judgement is served on the tenant, the tenant is able to go to court without any notice to the landlord and ask that it be set aside. All they have to raise is the slightest ground of dispute. Whether there's any merit to it or not doesn't matter. I've never seen a judge refuse to set aside one of those judgements.

Quite often the judgement doesn't require that money be paid into court, so when the landlord finally finds out that the judgement has been set aside, it's the landlord who has to take steps to try to get the money paid into court and to try to get a hearing date set down.

The example I've given you involved a tenant who was known by the landlord to be judgement-proof. It was imperative that the landlord act quickly. The landlord did.



The tenant fell into arrears. The landlord got default judgement. The judgement was set aside with the assistance of a community legal clinic on the basis that the Harris cuts had affected the tenant's ability to pay the rent. The landlord's position was, "That's fine, it may have affected your ability to pay a portion of your rent, but you haven't paid any rent." The judgement was set aside. The landlord didn't know about it until later. The landlord had to bring a motion to have the hearing put on. The landlord had to bring a motion to try to get arrears paid into court. That didn't work for technical reasons that you'll see outlined in the case study.

Ultimately the tenant bought five months of free rent before the landlord could get them into court. Then the tenant never showed up for the hearing and the community clinic never showed up for the hearing. The landlord once again, five months later, got the same judgement that he had in October of the previous year, and of course the judgement was unenforceable. When they did a judgement debtor examination with the tenant, the tenant said, "I spent the money," and that's what it came down to.

This case study is given to suggest that that provision be abolished and that some attention be given in the new legislation to requiring that there be notice to the landlord if you're going to set aside a default judgement and that payment of money into court be required.

Finally, case study number 4 deals with the provisions right now which allow a landlord — in this case it took a year before the landlord was able to get judgement for arrears and terminating the tenancy. The tenant brought a multiplicity of proceedings that the landlord had to defend, had to be present for, as they're expected to do under our laws. At the end of the day, four days before the writ was to be issued, the tenant paid the arrears into court and that ended it. The landlord had to start all over again the next time a dispute came up with the tenant.

I've made a recommendation to close that particular loophole, and I ask that all those recommendations be forwarded to whoever ultimately drafts legislation here.

Those are my submissions, and I'm happy to take any questions.

**Mr Marchese:** Mr Hoffer, one thing many legal clinics have said, and they agree with you on this, is that the present system works fairly well, that 95% of cases are dealt with expeditiously and only 5% perhaps are very difficult to deal with, but they said they weren't certain that because of that the whole system needs to be overhauled. I want to tell you there was a great deal of agreement in this regard and that a new system, as suggested, would not only be costly to the taxpayer, as you've indicated, but in addition there would be other problems in terms of expertise and who these people might be. They particularly talked about political patronage appointments, which would severely affect their ability to do that, and I presume you agree with that as well.

**Mr Hoffer:** Yes.

**Mr Marchese:** There is mediation, however, in this proposal. Do you have any disagreement with providing mediation type services where it is voluntary?

**Mr Hoffer:** Obviously, voluntary mediation services are welcome. My experience, first of all, is that any

landlord who's having a problem with a tenant paying their rent will talk to the tenant. Court is a last resort. By the time that you get into a formal mediation process, even if it's voluntary, there's a very hardened dispute between the parties. It may still be used to resolve it, but if it's mandatory or if it can be used to delay the proceedings in any way, it shouldn't be a part of this system. My experience is that every opportunity for delay will be taken because the tenants who abuse the system, and I'm talking about a very small number of tenants, know that the landlord is never going to be able to enforce the judgement and every delay they can take the opportunity of is going to give them another month's free rent.

**Mr R. Gary Stewart (Peterborough):** Thank you, Mr Hoffer, for your presentation. Over the last couple of weeks we've found a great deal of variation in the various municipalities that we've been in. A lot of them are saying that legislation, whether it be this or in the past, is driven by Metro and the big urban areas. You just made the comment as well that much of it is done by the bureaucrats in Toronto. Do you feel that if there are certain standards put into place in an act, more authority could be and should be given to the municipalities where there is such a variation across this province, whether it be vacancy or whatever? Is that a possibility?

**Mr Hoffer:** I don't see that as a possibility.

**Mr Stewart:** Can I ask why?

**Mr Hoffer:** I think municipal politics is much more subject to the whims of change than provincial politics and there are too many influences and not enough safeguards in municipal politics to ensure that everyone's interests are protected. I think the province is in a better position to govern with respect to all of the people in the province. Municipalities tend to look after their own, and that can be very dangerous.

**Mr Stewart:** I appreciate that, but certain flexibility built into this that would allow some of that, because certainly the concerns in Thunder Bay may not be the concerns in London, or Windsor against Peterborough, or Killaloe against Ottawa. I guess that's our concern. We're hearing it. We're seeing in this that as the vacancy rate goes up, the rental costs go down. There are many people in this room and many people have been in the room who say, "No, that's not true." But if you look at the statistics, that's happening. Yet if you talk Toronto, it's a whole different ball game. I guess that's where my concern is.

**Mr Mario Sergio (Yorkview):** Mr Hoffer, on your previous presentation you said that rent controls are a major barrier. I suppose that would be a major barrier for builders and developers to come on board and start building affordable housing again.

**Mr Hoffer:** Yes. It's a major barrier to investment in the rental housing industry.

**Mr Sergio:** At the same time, you also said that this proposed legislation here won't do. We have had previous presenters, people like Minto and Goldlist, saying that rent control is not the problem. They mention a list of things that they would want to see from the government in order for them to move back into the construction field.

You went a bit further this morning and you said, "We want to have a guarantee that if I'm going to invest, 10



or 20 years down the road I want to make sure that a subsequent government must give us the assurance that it won't come back and undo what this government is going to do for us." As a lawyer and representing the building industry in the area, tell us, how would you formulate that a government would give you that guarantee?

**Mr Hoffer:** First of all, I never said I wanted a guarantee.

**Mr Sergio:** Yes, you did.

**Mr Hoffer:** No, I didn't, and I never said that builders wanted a guarantee.

**Mr Sergio:** You're speaking on behalf of the industry, aren't you?

**Mr Hoffer:** Yes, and the way to achieve an element of certainty would be to abolish rent controls. I maintain that position. It doesn't mean that every provincial government is going to be bound. We know that can't happen. Believe me, landlords know better than anyone else that can't happen. But if you dismantle the existing system, there's a greater likelihood that you can rely on the legislation and that it won't change.

**Mr Sergio:** You want a better mechanism in place?

**The Chair:** Thank you very much, Mr Hoffer. We do appreciate your input.

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#### ONTARIO MANUFACTURED HOUSING ASSOCIATION

**The Chair:** Our next presenter is James Brother, chair of the Ontario Manufactured Housing Association, and with him is David Rice. Good afternoon, gentlemen. Welcome to our committee. The floor is yours.

**Mr David Rice:** Thank you. Mr Chairman and members of the committee, my name is David Rice. I am here on behalf of the Ontario Manufactured Housing Association, or OMHA. The OMHA is an organization which represents about 110 mobile home parks or land-lease communities throughout the province. Translated into housing sites or rental sites, that's roughly 20,000 rental sites throughout the province. Our association represents the manufacturers of mobile homes in the province, landlords and owners and developers of mobile home parks and also land-lease communities.

Personally, I am a director of the association and also a member of our family business. I think my dad and his partner started about 30 years ago and we presently own or operate and manage about 2,000 land-lease sites throughout the province.

By now I am sure you've heard a lot relative to the proposed legislation from a lot of other people throughout the various areas where you've been. We, as an association, don't really want to go ahead and go over a number of points that probably have been very well presented by the various positions.

The most significant point that needs to be recognized and understood by the committee, however, is the vast differences between apartment buildings and mobile home parks. When I use "mobile home parks," it would also include the term "land-lease community." Really it's only a zoning difference as to what the difference is. Both of them are communities where the land is leased to an

individual who mostly owns the home that sits on that land, and a landlord would own the whole community or the mobile home park.

The most significant point that needs to be recognized and understood by the committee, we believe, is that the present legislation and preceding legislation did not really clearly think out the differences, in our opinion, between apartment building leasing and mobile home park leasing. Even tenants who live in these communities along with us all agree that the present legislation does not work, as it doesn't recognize even the lifestyle differences that can be offered between mobile home parks and apartment buildings. We welcome the new legislation that the government has proposed and we certainly welcome this opportunity to talk before you today.

Mobile home parks are unique, and in Ontario really they offer a significant alternative in accommodation. You, the committee here, have an opportunity now to ensure that existing mobile home parks remain a good, viable and affordable alternative form of accommodation in the province.

What we'd like to do today, rather than going through detail, we have produced two booklets for you. One is a really detailed approach as to how we and our members feel, point by point, the proposed legislation affects our industry. The other is pretty much what I'm saying to you today.

We don't intend to go through the point-by-point. What we'd like to do is just touch on four general items: the annual guideline as it's proposed, the cap on the capital expenditures as it's proposed, maximum rent and prepaid rent as it would be in whatever changes there would be in the Landlord and Tenant Act. We'd like to address these points, the guideline, the cap on the capital expenditure, maximum rent and prepaid rent, all from a mobile home park owner's perspective.

Before we do that, we feel it's very imperative that you as a committee understand why we say that mobile home parks are unique and why the legislation, the guideline and the cap on capital expenditures, needs to treat mobile home parks differently than it does and has tended to do with apartments. In saying what we're all going to say, we sincerely understand that mobile home parks and land-lease sites represent a very insignificant number of rental accommodations throughout the province, but the reality is this legislation has affected and is proposed to affect our industry and therefore we need to think about it. We'd like you to think about it really in a separate sort of ballpark than apartments because these mobile home parks are different.

Although a lot of tenants think that we landlords of mobile home parks just sit back and count the money every month, I assure you that we as family businesses do a lot more. We look at it and we say that land-lease communities and mobile home parks are like little villages or little municipalities. We run these little towns that we talk about. Some of them have their own sewage plants or sewage facilities that they operate and maintain; others have water plants and water facilities. They build roads, fix potholes like a municipality, plow snow, collect garbage, dispose of the garbage, maintain recreation facilities like a town or maintain park land, and even



control the communities as to how they look and how they're run, which basically is how they are marketed, via a system almost like a bylaw enforcement officer would in a municipality. Then after dealing with all of that, we have to deal with the landlord and tenant business of being a landlord and dealing with tenants.

In fact, for many of our members, so much self-sufficiency exists within the communities or these mobile home parks that all that the local and provincial governments really supply are health- and safety-related items such as ambulance service, police service and fire protection. I say this because many of our communities are designed for seniors, so even education or schooling isn't required.

The point we are really trying to make is that these are like little towns. That's the way we consider them. They may vary from 20 units to 1,200 or more homes, but they are little towns and we say that the mobile home park is very different than apartments. We have one community in the Bowmanville area where we have over five miles of road that we have to maintain. It's different than an apartment where an apartment has a driveway and a parking lot. Very different costs come into play. Other communities, as I mentioned before, have their own sewer and water plants that they have to maintain and operate. It's very different than an apartment building, where usually all you have to do is run your lines to the street and hook up to the municipal services. These are all variables that make apartments and mobile home parks different.

But the most significant difference is the rent. I believe what you've heard over the last month or so is that the average rent throughout the province on apartments is roughly \$700 a month, or something like that. The average rent among our members is \$125 a month. That leads to what we want to address about the guideline and the cap on capital expenditures, because when you're dealing with these low, low rents and you apply a percentage to them, you end up with very low increases. An increase, I guess, is an increase, but you have to think of it in real dollars and in reality what those dollars are.

Relative to the annual guideline, to date the guideline has not worked, what has been in existing legislation. Even what's proposed we don't believe will work. Some may argue that it works for apartments, yet we are dealing with rents that are four, five or six times less than average apartment rents. As a result, guideline increases have been four or five times less, and because each increase is less, even geometrically less, the spread between what is deemed to be market or even average market rent between apartments and mobile home parks continually gets wider and wider and wider. For instance, if you think of an average rent of \$125 a month and you apply roughly a 3% increase, that's like a \$3.36 increase per month, or a \$36 to \$40 increase per year. That amount of money, in real terms, is not a lot of money, and that's where the problem comes in.

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The bigger problem in our communities is that the BOCI, or building operating cost index, generally weighs maintenance at around a 15% figure. In communities of our members, the maintenance part is included in our rent

just like it is for an apartment; of the \$125 a month, included in that is operating and maintaining of these communities. The maintenance aspect for us is averaging well above 80% of the rent and in some cases 110% of the rent. On \$125 a month rent, we average over \$110 a month in maintenance, and that's due to the nature of the communities and the various things we have and the low dollar amount of the rent. In order to maintain these little villages, a substantial amount of maintenance is required, \$110 out of \$125 in rent. That surely does not leave much room for error, let alone the ability to maintain the standards within these communities that the tenants and even the landlord want to keep the community at.

Remember, most of our members are not large corporations but family, ma-and-pa operations. Mobile home parks that were started by people like my dad and my uncle 30 years ago had rents that gave a proper return for the time, and they were probably designed — I know ours were — so that the rent would be our return on investment, and the other costs, for maintenance and operating, were a pass-through, much like within a condominium. They would be a pass-through, so that's actually what was spent, and depending on the style of community that was being marketed, the maintenance varied as a result.

Under the present legislation it can't be done. Under the proposed legislation, the way we read it, you can't separate out maintenance and operating costs. You have what we call a gross rent, which in our case right now averages at that \$125. I don't want to mislead you; there are many communities that have a lot higher rent than that, but the average throughout the province of our members is \$125 a month.

When I say that the maintenance is in some cases 110% of rent, you'll say, "Why do people stay in the business?" The best answer to that, in my mind, is just that it's really the way of life of the people in these family businesses; it's what they've known all their lives and they stay in it. The way they survive is by selling new homes and making enough money off the new homes to subsidize the rental operation.

But because the rents are so low, you need to address the guideline, we believe, differently than for apartments. We think you should, when you arrive at a guideline and deal with that guideline, actually say, "We recognize, because of these low rents, that there has to be a different guideline than for apartments." We're dealing with rents that are chronically depressed or so low that they don't reflect today's market. We believe the market today, on average, should be around \$300 a month and we have people who are well below that, as I said.

These family businesses, if there is a way of catching up — which we are going to mention here in a second, how we believe a guideline could allow them to survive and continue to maintain their developments the way they were intended to be. We feel the guideline should be three times the apartment guideline or an actual dollar amount. The key to the dollar amount is that then you're not dealing with a per cent relating to a very low rent. We believe the guideline for a land-lease community should be three times the apartment guideline or \$50 a month per annum, whichever is the greater of the two.



We believe that would work until it caught up to market, and then all of a sudden, once you're at market, market will then start to dictate. The developer or the landlord will say: "Should I be spending this? Where am I?" The market will determine what the actual increases should be. But there has to be a catch-up, and we felt that was the best way to do it.

We're very happy with the idea of vacancy decontrol, that when the person moves out you're dealing with the controls that will be there between the tenant and the landlord, rather than the unit or the site or the land, in our case, and the landlord. One could argue, "Hey, that's going to solve your problem of these very low, low rents." There's no question it will help. But there are two factors in our industry that again are a little unique, reasons we say vacancy decontrol is not good enough.

First is that with rents low, like \$125 a month, there's a tendency for people not to move, because their only alternative is a lot higher rent in another community or somewhere else. And again unlike apartment buildings, in our company's communities we offer 20-year leases. We don't offer month-to-month or one-year leases, we offer 20-year leases, so we have a tendency for people to stay. We have many people who have stayed over 20 years in our communities. So even if this legislation existed as proposed and a person moved in tomorrow, that person, the way it reads, will be controlled for 20 years. We have one member in our association that hasn't had anybody move out of his community for the last five years. That's why we say just the vacancy decontrol isn't good enough. It will help, it will be a blessing, but there has to be something else.

Similarly, the second thing I want to talk about is the cap on capital expenditures, and really the argument is virtually the same: Because it's a per cent relating to a low rent, the actual real dollars you're talking about are not very great. For example, a typical mobile home park might have 50 units in it, with an average rent of \$125 a month. If you're going to have capital improvements like a new roof on the recreation centre or roads repaired or street lighting, if you worked out the 4% on that, it works out to about \$3,000 that landlord would have to spend on capital expenditures for his community. We all know \$3,000 isn't realistic. You'd spend more than that certainly on the roof of a building, but even on the lightbulbs of the streets. It doesn't work. We feel the cap for land-lease communities or mobile home parks should be three times again, or \$50. So we're saying we feel it should be 12% of rent, or \$50 a month, an actual dollar amount, whichever is greater, until things are caught up.

Two other quick things. I just want to touch on maximum rent. We feel that the concept of maximum rent shouldn't be abolished. We have a little bit of a different approach, though, because in our communities, the home owner owns the home and we lease the land. When it comes time for that person to move, usually what they do is sell their home in the community and move and leave the home, sell it to Mr Jones, the new person coming in. We then, under the proposed legislation, will have an opportunity to bring the rent up to market. If that rent jump is significantly high, there's a tendency that the person's value they will get for their

home will reflect that; it could be reduced. If that maximum rent is there, we feel it can be used as a reference point to take away a lot of tenant and landlord concerns at the time the person moves. It's there and everybody says, "Yes, that's what is going to be." It eliminates the arbitrariness — I don't know if that's the right word — the arbitrary decision of a landlord. We feel there is real value in keeping maximum rent.

We agree that the change in the Landlord and Tenant Act to allow assignments and subletting to be denied by a landlord is necessary. We're happy even if the only reason we can deny other than financial would be that we've got to move that unit to market rent.

The final thing we touch on is prepaid rent. I'm not a lawyer, but in the Landlord and Tenant Act the prepaid rent is not even addressed. What we in our communities find is that because a lot of our communities are designed for seniors, a significant number of our market has ready cash because they've just sold their home in London or Windsor or Toronto or wherever they happened to be. They've got ready cash and they'll buy their home and buy it without a mortgage. What they're more concerned about is inflation and future costs and what the rent will be. We feel there's a real market for people to come in and say, "Here, I'll prepay my rent so I can fix, maybe even freeze, the rent for the term of my lease," even if it's 20 years. We feel this can be done via arm's-length trust agreements and trust companies to secure the funds so there isn't a situation of a bad landlord running off with the money.

The main reason we bring this up is that the problem today is really with the judicial system in Ontario. The judicial system has ruled that prepaid rent is akin to security deposits, and as such a prepaid rent can't be any more than the Landlord and Tenant Act says it can be for a security deposit. We suggest that the proposed legislation clearly say in the Landlord and Tenant Act part that prepaid rent is permitted, so long as it is not obligatory on the tenant and is voluntary on the part of the tenant; that the prepaid funds are to remain in an account managed by an arm's-length third party such as a trust company; and that prepaid rent is legal and not a security deposit.

That really is all we have to say on this. We'd be glad to answer questions. There was one question —

**The Chair:** Mr Rice, unfortunately you've used up all your time, but we do appreciate your input here today and your suggestions. Thank you very much.

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#### LONDON SOCIAL PLANNING COUNCIL

**The Chair:** Our next presenter is Bruce Wright, director of the London Social Planning Council. Good afternoon, sir, and welcome to our committee.

**Mr Bruce Wright:** I'm a member of the board of directors of the London Social Planning Council, an association formed to bring individuals and agencies together in the interest of social planning for the city of London.

Perhaps I could start by saying that the question of affordability has been one that the council itself and



many of its member agencies have been involved with. It came through to me this spring when a flood of people came through the door of our clinic with disconnections by London Hydro. It appears to me that this is a hidden effect of the affordability problem, that they've managed to eke out the rent, but finally London Hydro said: "Look, we've got all these arrears piling up. We've got to take action." Hundreds of people were disconnected in a very short period. They waited until spring had come. Some of those people were able to manage; others had to move. The figures we have don't include utilities, but our experience is that most people pay utilities in addition. If they've got to pay electric heat, they can be in real trouble.

That's what brought it to our attention. There are other agencies involved with consumers of mental health services: the mental health association, Family Services London, Mission Services of London, people who deal with special-needs populations, the developmentally handicapped and so on. We're greatly concerned that the deinstitutionalization which is government policy is going to add to the problem. They're going to have particular problems, because they're on social assistance, finding affordable housing.

That's how it came about that we decided to look at this particular area and not look at the whole omnibus aspect of the legislation.

We looked to see what facts indicated this, because we knew we have this relatively high vacancy rate in London so economic theory would dictate that there shouldn't be a problem, so then why are our clients having problems? But we look at some indications of this. There was a report done just last June by the policy division of the welfare department in London, showing some difficulties. There is indeed a waiting list for rent-geared-to-income units. Waiting for a co-op is one to three years. I believe the difference would relate to the size of units and so on.

London and Middlesex Housing Authority has an average monthly waiting list, or did in the last year we have the figures for, of about 1,000. That waiting list can be even longer than three years, depending on the need. They have a point system; it's not just first-come, first-served at present. Emergency shelters, particularly family emergency shelters, are at capacity already frequently during the year.

There are some figures which would explain at least one portion of those with low income, and those are the ones on social assistance and welfare. That's the table that was produced by the welfare department this spring. Over on page 3 we can point out — the paper itself pointed out — how it meant that most families would have to go down if they wanted to be able to pay rent out of their shelter allowance, that is, larger families would crowd into smaller units.

Even in London it looks like there will be some kind of force-out of smaller units. There'll be competition for the two-bedrooms and even the one-bedrooms. The people who normally would be expected to be able to afford those won't be able to do that. As I point out and the table points out, utility costs are not included, and that just tightens up by up to \$100 a month if you're on electric heat. That's why the welfare department con-

cluded that affordability is a key issue in accessibility to housing in London.

Looking at the proposed legislation, really looking only at the abolition of the RHPA, the effect will probably be less drastic than in the larger cities with the tighter housing markets, but it should encourage further conversions. We expect that the housing stock will be reduced and that many of those will go out of the rental market, perhaps half.

Looking at the phasing out of rent control — and that seems to be what the effect will be. Over a period of years, the majority of units will be taken out of rent control, will be taken to market rent. One surprising thing to me, it turned out that during rent control the vacancy rate actually dropped in London. If you'll notice, in 1987 it was 1% and in 1995 it was 4.1%. So what does that tell us about the effect of rent control in the first place? If rent control didn't dampen the market — it seems to be irrelevant — decontrol on the overall market will probably have no great effect. It certainly won't increase.

This is something to ask the builders: Why was it that vacancies increased over this period, despite rent control, and what are your plans now with rent control off? Will that move you into the market? Our feeling is that whatever happens with the overall market — and this is what we take from Professor Hulchanski's paper delivered to you a couple of weeks ago. He talks about effective market demand. It appears to us that rent control or no, nobody's going to build for the low end of the market.

We conclude that gradual rent decontrol will not increase the supply of affordable housing and we fear some negative impacts, particularly on the portion of the population we're concerned with, and that is with lack of repair. We really are concerned that the municipalities will not be able to monitor repair effectively, even though there's a step in the right direction in giving increased powers to inspectors. There's just a lack of resources.

London has only five inspectors for all its residential houses, and that's not enough. They have an elaborate weighting process to winnow out the ones they really have to go out to immediately — stair railings or something being shaky — but the bulk of problems are going to wait for up to six weeks before the inspector can actually come out, and that's a long time to wait. We fear it's a recipe for conflict between landlords and tenants.

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What we expect is that tenants will not want to move because they'll be afraid. They'll look around and they'll see that rents are even higher than they're paying now. Competition for low rental will be severe. They'll be facing higher rents, so they're going to stick. Many of the people I talk to now say: "Look, I'm going to leave. Rather than fight with the landlord, I'm going to leave." Unless there's a very prompt monitoring of repair situations, I see that there's going to be more conflicts and the possibility of harassment. In both those cases the enforcement of offences is not handled, is not prosecuted, by the crown office. They just don't have the resources to do that.

That really leads to our recommendation that there be some provision associated with this omnibus bill to provide grants in aid to the municipalities and maybe



extra resources to the crown, because this is going to be an important element of maintaining good landlord and tenant relations: to make sure there's prompt attention to complaints by tenants. That's really one of our strongest recommendations. We also suggest that the orders prohibiting rent increases should be maintained as well.

That's briefly our presentation.

**The Chair:** Thank you, sir. We've got about two and half minutes per caucus for questions, beginning with Ms Ross.

**Mrs Lillian Ross (Hamilton West):** I have a couple of questions that maybe you can help me with. It was a good presentation, but I wonder if you can tell me — on page 2 of your document you talk about the number of people on waiting lists. Maybe this is a stupid question, but where do you think these people are living now? They're on a waiting list, but where are —

**Mr Wright:** They're in private housing and would like to move into a place where — most of them will be on social assistance and they would like to move into a situation where their shelter allowance — that is the one area where shelter allowance still meets the rent and utility cost. They'd be much better off in rent-geared-to-income housing. The longest lists for co-ops would again be for those units which would be subsidized. That's why it's a long wait.

**Mrs Ross:** You made a comment that "No builder finds it profitable to build for the low end of the market." I made this comment earlier and I'm going to make it again. It's true that builders build, obviously, to make a profit. Landlords are in the business not for the benefit of everybody else but to make some sort of profit. However, if a new building is built, don't you feel that some people — not everybody who's in rental accommodation is at the low end of the income scale. Several people in rental accommodation choose to be in rental accommodation, even though they're in a high-income area. I'm suggesting that if they build a new building, some people who are in older buildings will move into those new buildings, thereby freeing up their accommodation, and someone else will move up to that, and so on down the road. I know other people pooh-pooh this idea, but I believe that is what happens. Could you comment on that?

**Mr Wright:** I don't have any personal experience in that. It's a good question to ask builders who come later on and on other occasions. Professor Hulchanski's study of the market seems to indicate that the movement's likely to be the reverse of that, depending on the economic situation, but at present he doesn't think the high end of the market is very large, that it's a very small market. Particularly with the possibility of condominiums, many people who would otherwise go into high-end rental accommodation like the greater security of condominiums.

**Mr Curling:** Thank you for your presentation. As a matter of fact, your presentation answered quite a few questions I was asking previously about the waiting list in London in terms of who we are addressing some of the affordability concerns to. You put not only a face on it but also a figure.

I feel an urge to talk about the trickle-down theory the government seems to really believe in, that if we feed a

lot to those on the top, some of the food will fall off and those at the bottom may get some gravy, may get some bread. The problem I have with that is that I don't mind waiting around for food, but if I wait too long I'll starve to death.

How long would someone with \$15,000 or \$20,000 a year income wait to get affordable housing? They are asking, where are those people who want accommodation? Even in Toronto, where I'm from, some of those people are in terrible conditions — medically it's poor — and they are waiting to go into affordable units. How long a wait do you think it would be for people on that waiting list who need decent, safe, affordable accommodation?

**Mr Wright:** I can't put a figure on that. When I was talking about London housing, people who are in extreme need get a few more points, so of the few units that become available out of the relatively small stock — and I made the point that that stock will not be increased — they can perhaps get in in a period of months. But some who don't have particular needs and are just struggling to meet their shelter costs could wait a matter of years, even in London, and I think it's not nearly as tight as Toronto.

**Mr Marchese:** Thank you very much for your presentation. I'll just try to make a few quick remarks. Ms Ross makes a comment that Mr Lampert speaks to, that is, if they do build it will be with a great deal of government assistance in terms of tax cuts in a number of different areas, and if they do build it'll be at the high end. But Mr Lampert, as Ms Ross argued, says that's okay because those who are in existing units will move to the others, therefore leaving room for many others to come and fill those spots.

That assumes something. It assumes that those people are ready and willing to go into accommodation at a higher standard where they will be paying more. I'm not sure that's the case. I suspect if they could pay more, they'd probably be in a condominium setting or buying their own house, is my suspicion. I'm not sure that trickle-down theory works.

But at the heart of this discussion around this proposal is whether we should eliminate rent controls, and they're proposing decontrolling as a measure to get there. The debate is whether or not we should let the free market take care of people and take care of the rents or whether rent control should be there to offer some basic assistance to low-income people by and large. Do you have a position, philosophical or political, on this?

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**Mr Wright:** Yes, I guess it's implicit. I didn't make it explicit thinking that perhaps this is a touchstone for the government to remove rent control as much as possible and that it's not in the cards. But I think we'd all feel much better if rent controls did remain, particularly from a concern for the lower-income members of our community.

**Mr Marchese:** Many landlords disagree with that view, and certainly many of the members on the other side disagree with that because they feel we shouldn't be intervening in the market, that the market will find its own equilibrium. The landlords argue as well that they



will not charge prices they can't afford, so why worry? Do you worry?

**Mr Wright:** I'm worried. I was very convinced by reading the presentation by Professor Hulchanski, the housing economist, that this is not a normal free market, when he talks about effective demand. It's skewed market, the housing market. I think just freeing it up is going to leave some people out in the cold.

**The Chair:** Thank you, Mr Wright. We do appreciate your input here this afternoon.

#### LONDON AND AREA TENANT FEDERATION

**The Chair:** The next presenter is Leo Bouillon from the London and Area Tenant Federation. Good afternoon, sir. Welcome to our committee.

**Mr Leo Bouillon:** Even though it's not written, I'd like to thank you for the opportunity of allowing me to speak this afternoon.

I would like to open by asking: When was the last time you went out and spent up to half of your income monthly on a large purchase? Did you expect this purchase to be unsafe, unhealthy or defective?

I as a tenant pay \$800 monthly on rent and feel that as a consumer — I have bought my accommodations for that month — I have the right to ask for and receive certain things. I expect accommodations to be safe and to meet certain safety and health standards. If these expectations are not met, I feel I should have an effective means of complaint, a way to be able to get what I pay for.

This government in its wisdom will make it more difficult for people like myself to get a fair shake. You claim that the system will be fairer. What you should have said is that you are catering to the people who have put you in power, the developers and landlords. Are they not a special-interest group?

Although rent control exists to accommodate tenants who may have issues over poor living conditions, illegal rent increases etc, the system is flawed, and the only other avenue for tenants is to hire legal counsel. It is my feeling that this leads to a system which is inaccessible to those people who are poor or on fixed incomes.

What has happened to the rent that tenants have been paying over the years, the 2% for capital expenditures that was supposed to be used by owners of rental property to ensure their housing stock stays in good repair? Even more amazing is the fact that rental properties are not accountable to me as a consumer and yet I pay their mortgage.

For the most part London landlords are responsible and have good business practices. The problem is with the slum landlords, who are an embarrassment to such organizations as the London Property Management Association and should be to the city of London. What I'm referring to is the landlord who provides substandard housing and who has the audacity to complain but has never put money back in to maintain his property. In the high end of rents there is much respect for the consumer, but they are paying for that privilege. The lower-end consumers are faced with problems of depleting funds and depleting housing stock and now the threat of losing

the privilege of their housing to a greedy landlord who has been looking for an excuse to get more money.

There should be a system in place that in my opinion would be fair. If you are to force landlords to license their businesses, as most other businesses do, there would be accountability. If a business was unable to get their licence because of poor maintenance practices, that business could not be sold or transferred until it has met the requirements necessary to renew its licence, you would definitely see substandard housing change its face. The cost should not be passed on to the consumer because of neglect on the part of the landlord. If anything, that individual should be charged for bad business practices.

There is constant reference to the fact that the proposed changes to rent control will increase the rental housing stock. Rent guidelines would not apply to new construction. Have the Minister of Municipal Affairs and Housing and his staff actually read the rent control legislation? When the legislation was passed in 1992, new housing was exempt from controls for the first five years for the encouragement of new housing stock. Is your exemption magic? If there hasn't been much movement in the construction of new housing then, what will proposed eliminations of rent control guidelines do? Let's face it: If you believe there will be a major shift — as Mr Leach has put it, "create a better climate for investment and maintenance and new construction, therefore creating jobs" — then you've been sold down the golden path.

On other issues under the Landlord and Tenant Act: "Tenants may not withhold rent they owe when they have a dispute with their landlords." This statement really blows me away. You talk about fairness and how these proposed changes are going to help everyone concerned. Well, you've just taken away the only bargaining tool that tenants really had. The one and only way a tenant could make his landlord stand and take notice was to withhold rent until the issues were resolved. I know you have a commitment to those, again, who have helped elect you, but why would you take this privilege away?

The interest on last month's rent should be paid annually. The tenant federation has received as many as 75 calls annually on this very subject. In most cases, interest had not been paid and became such a problem for the tenants trying to collect it that they just gave up. The rate of interest should stay at its present rate. For years landlords had the upper hand when the rates were as high as 10%. The other alternative is to look at a fair system. If we're going to do that, let the interest rate reflect what the market is dictating. If rates go up, so then should the rate of return, and vice versa if the rates go down.

Subletting is another area of concern. Again, from most of the calls received by the federation, landlords took advantage of people's misfortunes. Callers complained that because of the situation with job transfers and the like, they were forced to pay as much as one month's rent to get out of their leases even though there was a law in place that forbids this kind of practice. Out of frustration and desperation, tenants would just pay and move on their way.



Although I believe the dispute resolution system could be effective for both tenants and landlords, as discussed in the tenant protection legislation, I have deep concerns about government's ability to come up with any feasible ideas of their own. In essence, they are asking the community to come up with effective ideas of our own and to try to sell them to a largely unsympathetic government. If they can't up with a firm idea on this issue, what assurances can they offer as to who will be responsible for the system, who will be held accountable? What kind of qualifications should an adjudicator have and what length should he or she should be appointed for?

The last issue I will touch on is the mobile home parks and land-lease communities. Having spent many hours organizing 12 tenant associations and being involved with the Bill 21 process and seeing it through, I firmly believe this is one area that needs the safeguards and protections now in place. The cap on special-cost pass-through provisions for capital expenditures mentioned on page 13, "Other issues for discussion," again should be placed under the same category as those that apply to slum landlords. If a business does not apply proper measures, then it fails. Does that same businessman start up another business and pass the cost on to the consumers? Then the same should apply here. I reiterate, where has the money paid in good faith by the tenants gone? If the landlord has not maintained his park, why should the tenant pay twice for the service that should have been provided for in the first place?

In closing, my last question is directed at the present government. Why have you spent all this money on public consultation when you often reply, "We're only following the mandate that has been given to us by the people who have elected us"? In the past, you have told us that your minds are made up and nothing will change. Then why would you put us through this process, knowing fully well that what you have proposed is, in the end, fact? Thank you.

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**Mr Curling:** Thank you very much for your presentation. You've touched on quite a few areas and I'll try just to give you a quick commentary on what happened.

As you know, the Greg Lampert report that the government has commissioned, asking Mr Lampert to go around and talk to developers and ask them what direction they should go — their New Directions paper was based on the Lampert report. One of the suggestions Lampert told them to do is to rush this thing through quickly because it can be painful and there were going to be high rates of rents that may happen, so there's a "Get it over quick before the next election so you can get elected" insinuation there. That kind of stuff tells us that they did not intend to have any consultation with the broad sector.

In the meantime, while the minister stated that this is a consultation paper, what he has done is put things in place. I believe that legislation is right now being written in some basement, because they've cancelled social housing; they have cut 21.6% to the most vulnerable, creating a greater need for these people. In the meantime, all along they have told them, the developers, that they will not build, no matter what you do in taking off rent control, at the lower end of the area there.

Having said all that, because I just have to vent some of that emotion I have, because this is what has been told to us and this is what we know, the question you ask about the capital expenditure, I have not gotten an answer either on those capital funds that they got in order to fix those buildings, and they're run-down. Do you think it's fair that they should be asking more money now in order to fix this neglected \$10-billion maintenance of buildings around?

**Mr Bouillon:** My personal opinion is that it has been paid for already, so why pay for it twice? The landlord had the opportunity of using the 2% to make sure his property was well maintained. Because he has neglected to do so, there should be some other means — the tenant shouldn't have to pay for that; the landlord should be held responsible to make sure his building is in proper condition.

**Mr Curling:** I'm glad that you identify the fact that the guideline, this magical guideline, is not a mystery itself. Within that guideline there are provisions made for maintenance. As a matter of fact, I was partly responsible for that, which they call the building operating cost index, which makes provision for the maintenance of buildings, and now they are asking for more. I'm very happy that you have identified knowing that. Tenants should know that and residents should know that. That is already taken care of.

**Mr Marchese:** Thank you, Mr Bouillon, for coming and presenting some of your views. We've heard much of the same throughout Ontario in terms of concerns that people have. The Conservative members say the system is broken. In fact they're the only ones that are saying this, and the landlords; they agree with each other: The system is broken and it needs repair. Much of what they're saying is that we've got to get rid of rent control, only they're beginning with decontrol as a first step.

**Mr Bouillon:** Exactly, yes.

**Mr Marchese:** Part of what they're also saying about why there's a need for change is because the system is tilted towards the tenant; that's really the problem. The reason they're proposing this protection package, which is not really for tenants, as it says, but for landlords, is to bring about some balance. You've had a lot of experience from what I've heard. Do you feel that the system somehow is tilted towards the poor tenant and that we need some fixing in that regard?

**Mr Bouillon:** The tilting, again, is a question that has been of course brought up by the landlords and the Conservative government. As I mentioned, there are flaws within the rent control legislation, which I will admit to, but what do you do? Decimate a whole piece of legislation because it's not working in the landlord's favour? I don't see the point in all that. You've spent millions of dollars working, putting this thing together, and now you're just going to throw it out the window, rewrite the whole thing, and to what end?

**Mr Marchese:** I agree with that. One of the landlords — I thought he was a landlord; if not, the lawyer, I believe, Mr Hoffer — said that many of the landlords are not taking that guideline increase, which is 2% or 2.8%. Is that, in your experience, real? Are these landlords not taking their 2.8%?



**Mr Bouillon:** The only person I know of whom that has ever happened to is myself. My landlord has decreased my rent, but that is something I don't hear about every day, believe me.

**Mr Marchese:** I didn't think so. Coming back to rent control, what the Conservative members argue, and the landlords, is that rent control has ruined everything and that what we need to do is let the market take care of rates. Do you feel protected by the removal of rent controls? Do you think people whom you've been organizing with would feel somehow protected by the market if we did this?

**Mr Bouillon:** No. Tenants right now are really concerned about that particular issue. If rent control is gone, then where are they at? There are some provisions within the Landlord and Tenant Act as well that could be literally taken away. One of the things I mentioned is that a bargaining power tool, to me, is being able to withhold my rent if my landlord would not comply. I don't mean frivolously or anything. We've seen situations in London where, for example, the landlord has not paid utility bills; utilities get turned off.

**Mr Maves:** Thank you for your presentation. On the first page you say, "I expect my accommodations to be safe and meet certain safety and health standards." We agree and that's why we've put several provisions in here regarding maintenance. You went on to say that these proposals don't give the tenant a fair shake but cater to the landlords.

I'm going to read some of the maintenance provisions we've put in here. I wish you could tell me which one of these cater to landlords. Violation of a property standard will be made an offence; the requirement that a notice of violation be issued prior to work order will be removed; removing this step would allow work orders to be issued requiring that a property be repaired as soon as a problem is identified; property standards officers will be given more powers, including the authority to have a property inspected by a qualified expert when an owner does not provide sufficient information; maximum fines will be increased to \$25,000 for a first offence, \$50,000 for subsequent offences; provincial courts will be given the power to issue prohibition orders; these orders can prohibit a landlord convicted of a property standards offence from repeating the offence; non-compliance with orders can lead to additional fines and imprisonment. Which one of those caters to the landlord?

**Mr Bouillon:** Maybe I can answer that in a different way. Because of the involvement I've had over the past several years, I've seen situations where the landlord's responsibility, as we all know, is to maintain his property. Some of the stuff you're proposing, sure, is great. The problem is, are you prepared to put in the necessary money to make sure that all this is going to be complied with?

**Mr Maves:** So these maintenance provisions are a step in the right direction as far as maintenance goes?

**Mr Bouillon:** Sure. The problem is if you're not going to follow through on it, and this is what we've found over the past years. For example, if a tenant complains to the property standards office, in most cases it'll take two or three weeks for the inspectors to get out. If you want

a system that's going to work, you're going to have to be prepared to put money into it. This present government has shown us that it's not prepared to do anything like that.

**Mr Maves:** So the existing system doesn't work, but don't change it.

**Mr Bouillon:** You asked me a question about property standards, did you not?

**Mr Maves:** I asked you which one of those catered to landlords.

**Mr Bouillon:** What page are you at?

**Mr Maves:** Page 4. I just don't see any of the maintenance proposals that cater to landlords.

**Mr Marchese:** Rent control does; the Rental Housing Protection Act does —

**The Chair:** Mr Marchese, this conversation is between Mr Maves —

**Mr Maves:** With regard to safety and health standards, we're addressing that. I don't see any of those that cater to landlords.

**Mr Bouillon:** It's certainly not catering to the tenants, believe me. It does not. Again, if you've been involved in the system instead of sitting back in an office somewhere where you're not exposed to this kind of thing —

**Mr Maves:** I know the system doesn't work right now. That's why we're changing it.

**The Chair:** Thank you, Mr Bouillon. We do appreciate your input this afternoon.

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#### NEIGHBOURHOOD LEGAL SERVICES, LONDON AND MIDDLESEX

**The Chair:** Our next presenter is Cynthia Harper, executive director of the Neighbourhood Legal Services, London and Middlesex. Good afternoon, Ms Harper. Welcome to our committee.

**Ms Cynthia Harper:** Mr Chairman, committee members, my name is Cynthia Harper. I'm a lawyer and I'm the executive director at Neighbourhood Legal Services, which is a community legal clinic in London.

Neighbourhood Legal Services is funded by the Ontario legal aid plan. We provide legal representation and information to low-income residents of the city of London and the county of Middlesex. We also provide community education and community development. Our mandate is also to perform law reform functions for the economically disadvantaged residents of the city and the county.

In 1995, Neighbourhood Legal Services provided information and representation to over 2,000 tenants in the city of London and the county of Middlesex. We have represented tenants before the courts. We have acted on landlord and tenant matters, on rent control matters. We have assisted tenants who live in co-ops. We have heard from tenants who are concerned about having their accommodation converted to condominiums, and we have also heard concerns from tenants who live in government housing. We also have extensive experience in appearing before different tribunals in other areas of the law, such as the Social Assistance Review Board, the Workers' Compensation Appeals Tribunal and so on.



First of all, I would like to thank you for coming to London today. I wish I could attend before you today and say that with a vacancy rate of 4.1% in this city we do not have tenant concerns. Our clinic represents tenants only and we hear these concerns on a daily basis. London is seen as being a very affluent city. You're told that we do not have a supply problem. What we hear at the clinic day after day is that there is a problem with the affordable housing in this city and that there is a supply problem, that is, a supply of affordable and properly maintained housing in the city for lower-income residents.

We hear the same sort of concerns that you have probably heard over and over again in the other cities that you have travelled to. The fact that we have a higher vacancy rate does not necessarily mean that these tenants in the city do not need landlord and tenant protection. What we have heard from our clients is that some of the proposals being made in this discussion paper are not protecting tenants.

Today I would like to just raise a number of the concerns that we have heard from our clients. We have provided to you an extensive brief which has dealt with many of the issues in the discussion paper and I'd ask you to please review that.

I would ask you, first of all, to consider some of the comments that were made by the representatives from the social planning council today. There was a report that was presented by Jennifer Kirkham of the department of community services called Accessibility to Housing in London. One of the conclusions of that report is that there is an affordability problem here.

We are very concerned that the proposals that are made in this discussion paper will have an impact on affordable housing, in particular those dealing with vacancy decontrol and the repeal of the Rental Housing Protection Act.

First of all, with vacancy decontrol, we feel that this will have an impact on the rental market over the next few years. As the Lampert report points out, it's estimated that approximately 20% of tenants move each year and, over a five-year period, 70% of tenants have moved at least once.

When we speak with our clients, we hear that they move and they move for a number of reasons. When they are in a position now of having to negotiate their rents with landlords, with no restrictions on the rent, we feel that the negotiation process will probably be more like a take-it-or-leave-it situation. That's especially true for low-income clients and those on social assistance. While there is a vacancy rate of 4%, this does not mean there is a glut of supply of affordable housing in this city.

As I've mentioned, our clients move for a number of reasons. One of the concerns we have is one that is pointed out in this paper. The implementation of vacancy decontrol may lead, and in fact it's probably expected that it will lead, to a need for strict controls to prevent tenants from being harassed by their landlords.

It's been our experience that it's extremely difficult in the present system for tenants to enforce their rights under the Landlord and Tenant Act or the Rent Control Act. While the Landlord and Tenant Act provides for certain offences for violations of the act, such as chang-

ing the locks without the consent of each party, interfering with the vital supply of housing, distraining a tenant's goods and so on, our experience has been that it's extremely difficult for tenants to access the system and to use that system properly.

In the city of London the police are extremely reluctant to lay any types of charge under the act. If a tenant wishes to lay a charge, they have to attend before a justice of the peace. On many occasions when I've called up the justice of the peace, I have been told that I have to draft the actual charge for the tenant. The tenant then has to appear before a justice of the peace and ensure that the charges are laid. As you've heard, the crown attorney's office is very reluctant to accept these charges.

Ultimately, what happens is that a tenant who is being faced with breaches of the act, and serious breaches, by a landlord must not only act as investigator but must act as a witness at the hearing, must lay the charge and ultimately must be the prosecutor of the charge. It's been our experience that when a conviction is rendered in any type of landlord and tenant matter, the sentence is minimal.

So we welcome the types of measures that are being introduced; however, we wish to point out that a harassment unit may not be effective in the long run. It must be financed properly and ultimately it may not lead to tenant protection from harassment.

Another concern is the Rental Housing Protection Act. This discussion paper basically is going to repeal the Rental Housing Protection Act. It's changing its focus to protecting the sitting tenant and is removing the requirement for municipal approval.

A report was done by the city of London called the Report on Condominium Conversion Approval Criteria and Process, dated June 19, 1996. This report states, "Rental units have been removed from the market due to conversions to condominium without the concurrent construction of new rental units, resulting in a decline in the overall number of rental units on the market."

In London we are seeing rental units being lost to the conversion process and we're concerned, without any controls at all, that even in London we are going to be seeing the loss of more affordable rental accommodation.

One of the concerns I hear over and over again from tenants in this city is that dealing with the lack of repairs. The discussion paper itself says, "The current system does not do enough to ensure that buildings are kept in good repair." Many of our clients complain about repairs, and we welcome the proposed changes that have been outlined to assist enforcement officers in having more enforcing mechanisms available to them. However, as has been pointed out to you previously, these reforms are not going to be efficient or effective unless there is some funding given to the municipalities in order for them to carry out these enforcement functions.

In London we have five bylaw enforcement officers. They have a waiting list; it takes some time for people to get out. This is in a city where the city was found to be negligent in a case called *Mortimer v Cameron* and was found to be 40% liable in a judgement of over \$4 million.

One issue I wish to raise as well is that dealing with the dispute resolution system. There's one thing Mr



Hoffer and I may agree on — there aren't many — but that is that the jurisdictions of the courts should remain in dealing with landlord and tenant disputes. These are very serious matters. People's homes are at stake, and the discussion paper talks about removing the landlord and tenant matters over to a tribunal. It talks about having these reforms that are there to ensure a quick, efficient system with fair decisions, and it talks about having a high standard of procedural fairness and a reduced cost.

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I propose to you that simply moving these matters to a landlord and tenant tribunal is not going to resolve the issues. The court system is there. In our experience, it works effectively. I have to admit that there are some barriers to access that need to be addressed. Especially with our clients, it's very difficult for them to bring litigation, but there are measures that can be taken. For example, mediation may be introduced, we may have a duty counsel system, and even doing such simple things as having forms available to tenants to allow them to bring litigation would certainly help them.

For example, now a tenant may bring an application to the court for an order that repairs be done and for an abatement of rent, but it's difficult to do that on their own because there's simply no form available that they can just fill out and bring. There are other forms, but no forms for a tenant to bring that application.

If there is going to be an alternative dispute resolution system, the following are our recommendations.

First of all, it must be independent of the government and subject to legislation.

The appointment process is critical. Adjudicators must be selected by way of a fair and open and established process. Appointments must not be simply rewarded to the lowest bidder.

Adjudicators must be well qualified and impartial. Political appointments are not acceptable and will undermine the credibility of any tribunal that is set up.

Of vital concern as well is that adjudicators must receive ongoing training and it must be in substantive law as well as in policies and procedures.

Voluntary mediation should be a part of the process.

The process should be governed by the Statutory Powers Procedure Act and that act should apply to all of the hearings. There must be rules of procedure and these rules must be simple and they must be publicly available to anyone who wishes to use the system. This will put all parties on an equal footing and will establish to the parties just what is expected of them.

Furthermore, because residential tenancy law is very complex in many cases, the tribunal should have charter jurisdiction.

There should be appeals from any tribunal system to the Ontario Court, Divisional Court and that should be on questions other than fact alone.

Furthermore, it is vital to tenants that there should be an automatic stay of eviction orders upon appeal.

In order to ensure access to the delivery system for low-income tenants and landlords, we recommend that costs be awarded in the discretion of the tribunal but only in exceptional cases. Furthermore, if filing fees are going

to be paid, they must be minimal. Both landlords and tenants must have access to this system.

We would also recommend that any system that is set up should have a public legal education component. This tribunal or administrative system should provide information to landlords and tenants, not only about the process itself but about landlord and tenant legislation in law.

Finally, it is critical that any system that is set up be properly funded. A system that has workers who are overworked, where the system is underfunded, is going to experience delays, and that will not result in justice for either landlords or tenants.

Finally, we would ask that any implementation be carefully planned and policy must be developed and training must be first in place before that system is introduced and is up and running. Thank you.

**Mr Marchese:** Ms Harper, I have two quick questions. The first one is around what Mr Maves was asking the previous person. He was commenting on the fact that the provisions to have enforcement officers enforcing proper maintenance is a good thing and it's for tenants really.

**Ms Harper:** That's right.

**Mr Marchese:** But you've raised a problem. You say, "Well, unless you have enough resources to make that happen effectively, it exists on paper but nothing more than that."

**Ms Harper:** That's precisely what our point is, yes.

**Mr Marchese:** Is there anything else in this paper, this so-called tenant protection paper, that is protecting tenants?

**Ms Harper:** Not that I could see. I had read this paper with much interest and no, my conclusion is that in fact some protections that are there are being taken away from tenants.

**Mr Marchese:** Let me just read you the whole list. The Rental Housing Protection Act, does that help tenants?

**Ms Harper:** No.

**Mr Marchese:** The costs no longer borne, does that help tenants?

**Ms Harper:** No.

**Mr Marchese:** The rent registry, does that help tenants?

**Ms Harper:** It helps tenants but the elimination does not.

**Mr Marchese:** I'm sorry, that's right, the elimination of it. Decontrolling of rents?

**Ms Harper:** No, that does not.

**Mr Marchese:** The increased costs on capital costs from 3% to 4% plus including taxes and utilities, does that help tenants?

**Ms Harper:** No.

**Mr Marchese:** I didn't think so. Orders preventing rental increases?

**Ms Harper:** No, we suggest that that remain.

**Mr Marchese:** Of course. All of these things are being taken away and they assist the landlord.

A question on the whole issue of a dispute resolution system: I agree with that position, and that's been my view all along. But one lawyer yesterday in Windsor stated a particular problem. She said the system is a bit confusing, however, because there are a number of



different forums for dealing with disputes so you might have a provincial offences court dealing with some, the rent control officer, Small Claims Court, the landlord and tenant court. She made a good point, I felt.

How do you deal with this confusion of the variety of different forums to deal with problems?

**Ms Harper:** I know there are a number of forums but I think it depends on what the situation is. For example, with rent control matters, they're more of an administrative nature usually. So in that system, with an administrative component, the rent control system is not all bad in the way that it is set up to be a tribunal. It's our position, with landlord and tenant matters, where the act deals mostly with evictions, that they are most suited to be in court.

**Mr Ernie Hardeman (Oxford):** Thank you for the presentation. One of the issues that you brought up was the increased rent when a unit becomes vacant and the negotiation problem with the second tenant, that you feel that the landlord will dictate the price as opposed to negotiating with a new tenant. Landlords have made presentations before us here in London suggesting that presently over 70% of the accommodations are below the allowable market rent. So in fact the market is keeping the rent where it is as opposed to rent control. What would lead you to believe that because it became vacant that all of a sudden those circumstances would change and we would see dramatic increases in the rent on the second occupation of the unit?

**Ms Harper:** My experience has been more with the lower-income tenants and the rental units that are not getting a lot of rent. Our concern is that in that niche there's not an oversupply of housing; in fact there's an undersupply from what my clients are telling me. It's very difficult to find housing in that rental range and, as well, it's very difficult to find housing that is properly maintained and where the repairs are being done. It may be in certain areas, yes, they are getting less than maximum rent but my experience has been that for lower-income tenants, that's not happening.

**Mr Hardeman:** The other issue, if I could quickly, was conversion, your concern that we will lose a lot of rental stock through conversion because it does not require municipal approval. Again, it shows that there is a difference in different areas of the province. In London they have not refused very many conversions as it is. In your opinion, why is there a difference between not having municipal approval and having a municipality that approves every application?

**Ms Harper:** Again, I think it just opens up for landlords a further possibility for us to lose the affordable housing. In addition, not only is there going to be no approval needed for conversions, but no approval needed for demolitions or major repairs. A lot of tenants express the concern that if it's going to be converted they need to have protection.

**Mr Sergio:** Are you familiar with the Lampert report?

**Ms Harper:** Yes, I am.

**Mr Sergio:** Good. This was written for the government, paid by the government. It suggests that the shelter portion be paid directly to landlords. How do you feel about that?

**Ms Harper:** I don't agree with that. Perhaps I can explain to you: At the clinic we have many clients on social assistance where one of the options for them is to have their rent directly paid by social assistance to the landlord, and we've opposed that on most occasions. There's only a very rare occasion we agree with that. Part of that is that it takes away from people their own dignity. It takes away from them the ability to control how that rent money is being used. You've heard today that on many occasions the only way to get repairs done for a tenant is to withhold that rent until they're done, and that takes away that option.

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**Mr Sergio:** Do you think that it's because a few or a lot of tenants are delinquent, if you will, that it's such an extreme for the government to take, let's say, such an extreme action?

**Ms Harper:** Sorry, I didn't hear the first part of your question.

**Mr Sergio:** Wouldn't that be a very extreme action on behalf of the government?

**Ms Harper:** Oh, definitely, yes. I don't think it's necessary and it's certainly extreme.

**Mr Sergio:** What would it do to the number of people who can't assist themselves in locating affordable properties?

**Ms Harper:** It's going to be very difficult for them, and we're seeing that now in a city like this.

**The Chair:** Thank you very much, Ms Harper. We do appreciate your input here this afternoon.

#### LONDON PROPERTY MANAGEMENT ASSOCIATION

**The Chair:** Our next presenter is Bill Amos from the London Property Management Association. Good afternoon, sir. Welcome to our committee.

**Mr Bill Amos:** Good afternoon. My name is Bill Amos and I'm the president of the London Property Management Association, or the LPMA. We're an association that's a non-profit group comprised of approximately 200 members of both large and small landlords in and around the London area. Thank you for the opportunity to address the standing committee to discuss the changes to the present landlord and tenant legislation.

Many of our members are also members of the Fair Rental Policy Organization of Ontario, which I understand has forwarded a submission to the standing committee that we strongly support. I've left with you a summary of the topics I wish to discuss today, there being four of them to touch on.

The first area I wish to deal with is that of rent control. The most economically efficient system, of course, would be for the complete elimination of rent controls, to let the forces of demand and supply dictate the market. We realize that due to the political pressures this may not be realistic. Prior to the most recent provincial election, and shortly thereafter, there were many reassurances that there would be drastic changes to the present system which would both decrease the political influences to the rental market and restore the economic factors.



Due to the current slump in the economy in most municipalities, London being one, and possibly with the exception of Toronto, they are currently in a situation where vacancy rates are high and the market dictates the market rent levels being charged. Anyone looking at the classified section of the local newspaper, the London Free Press, can see page upon page of advertisements where landlords are trying to interest tenants in their properties.

Under the proposed legislation, in most cases with new residents, if the concept of maximum legal rents is completely lost, in bad times landlords will have to follow the market conditions and perhaps not charge the annual statutory guideline amount, and then in good times they'll be limited, based on the statutory guideline which is based on past economic growth or negative growth. A freeze of the maximum rents on units with existing residents will also erode the concept of maximum rents, which will eventually result in the same situation as the vacant units which are re-rented. If this doesn't bankrupt the property owners, it may certainly cause a decrease in service, supply and choice in an environment of constant growth. This is a no-win situation for the landlord, the tenant and the economy as a whole.

Segregation of tenants into groups of existing and new tenants can do nothing but create barriers with landlords when inevitable situations occur where one rent level is obviously much different than another due to ceilings on chargeable rents, whether it be the maximum rent on the existing tenants or the statutory guidelines for new tenants. There must be some uniformity in the mechanism by which landlords can equitably charge for equivalent services rendered.

There are a number of instances where landlords and residents are both agreed on a rent increase based on an increase in service or an upgrade to their unit. There should be a mechanism with the new legislation that allows this without restriction when there is consent by both parties. The mechanism should include protection against any undue influences and there should also be a cooling-off period after a signed agreement is made.

I understand one of the reasons for suggesting the elimination of maximum rents is to eliminate the costly rent registry. By putting the burden on landlords to prove the maximum rent when there is a question regarding that, the rent registry can be eliminated while at the same time preserving the maximum rents.

New construction of multiresidential buildings is an area for which the government is hoping to stimulate growth. How do you see these proposals provide any incentive for developers and/or landlords to build new projects? There's insufficient incentive under the current system, and these proposals only make matters worse.

The same applies to the renovation of existing stock in Ontario. Approximately three quarters of Ontario's current stock of privately owned rentals is in excess of 20 years of age. Obviously, at this age many buildings require refurbishment, which translates into economic stimulation in the workplace, which can be nothing but good for our economy. Why would landlords even think of doing work other than what is necessary with restrictions that are increasingly forcing us into a corner?

The next area I wish to address is that of property standards. The loss of the requirement that a notice of violation be issued prior to a work order might be appropriate in a limited number of instances where there's a physical risk involved, but there must be a clear requirement in most instances that residents notify landlords in writing of needed maintenance and ensure a reasonable opportunity for us to rectify any problems. Should there be changes to the present legislation in this area, it must also provide landlords with the right to inspect units, with 24-hours' notice to residents, to determine if there are any problems within the units.

In the case of substandard properties there must be a clear definition of what "substandard" means in order to alleviate the majority of frivolous complaints. Regardless of changes to the system, filing fees should be implemented to reduce the number of insignificant complaints.

It's imperative that there is good communication between all parties: the property standards officers, the landlords and the tenants. This legislation is going in the opposite direction.

The final area I wish to touch on is that of the dispute resolution system. For the most part the current system functions well as long as the situation is straightforward and everyone follows the proper procedures. Obviously this is not always the case. We agree that changes are necessary to ensure that disputes are dealt with in a simple and expedient manner. Should a decision be made to proceed with the suggested system, we recommend that those appointed be individuals who have the qualifications and experience to properly deal with the issues and not be subject to any political influences.

In summary, I'd like to reiterate the areas I've touched on.

First, the elimination of maximum rents, as the proposed legislation suggests, would do nothing but increase an already bad situation for owners of current stock and for stimulating growth in the area of new development.

There must also be a mechanism by which landlords and tenants can agree to a rent for upgrades in their units without having to go through the government to do so. The proposed changes to the mechanism on which property standards function must be one of communication. Landlords must have the ability to at least correct a problem prior to an order being issued. We need an open communication system between residents, property standards officers and landlords.

Last, I noted the dispute resolution system. Whatever is done, simplicity and fairness must be the main objectives. It takes years for landlords and tenants to get into a position whereby they can negotiate freely about rental accommodation, but political intervention by previous governments has negatively influenced this process. It's our request that changes to the present legislation be made for the benefit of all parties involved: the landlords and the tenants. Thank you.

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**Mr Smith:** Thank you for your presentation. Over the last two weeks we've heard a great deal — you alluded to the issue of supporting the Fair Rental Policy Organization of Ontario — about the outstanding amount of money that's currently in place with respect to main-



tenance: \$10 billion. Many tenants have come before this committee expressing concern that they've paid for that already.

As someone who represents landlords, and as you're aware, I represent a part of this city, how can I be assured that tenants in this city haven't already paid into it? And have landlords simply put the money in their pockets and run, or where has the money gone?

**Mr Amos:** The ability of landlords to charge rent increases over the past number of years in London is almost nil. The majority of our members I have talked to have noted that they have not taken rent increases over a number of years because there is so much competition out there. In many cases they've taken decreases in rent to keep existing tenants. They've put a number of upgrades into the suites of current residents and into vacant suites to attract new tenants. They've been doing what they can to try to keep their buildings filled in an open market.

As I mentioned, right now the laws of supply and demand are dictating the rent levels that landlords in London and a number of communities in the area can charge. Looking at this — I think Mr Bouillon noted it when he was giving his presentation — the majority of landlords in London are not a problem with substandard properties, and we have done nothing but put money into our projects over the last number of years to upgrade them in order to attract tenants. We have to do that.

**Mr Smith:** We have had a number of presenters, some 80% of them landlords who have less than five or six units, family investments. Do you feel the paper should include some provision that addresses the small landlord situation or should we retain the generic flavour the paper has currently with respect to landlords? Is there an opportunity to address that? Should we address it?

**Mr Amos:** Various areas of the paper I think should be addressed as a whole for both large and small landlords, especially in the area of rent controls. A small landlord often doesn't have the ability or know-how to go to the government and apply for what needs to be done to renovate a suite so he can charge more rent or to go and get a situation with an existing or new tenant whereby they agree to a rent without political intervention. In those cases I can see there being a problem, but as a whole I think the changes to the legislation and the current legislation shouldn't really be segregated between large and small landlords.

**Mr Curling:** Mr Amos, do you feel that adequate consultation has been given to this issue?

**Mr Amos:** What issue is that, sir?

**Mr Curling:** Whether adequate consultation has been given to this housing policy or rent control policy, not housing policy really. Do you think the government has consulted enough?

**Mr Amos:** I know representatives from the London Property Management Association have been involved with the consultation process. There has been a lot of input that we have offered. Yes, I feel that there has been a large amount. We have been disappointed with the paper which is being suggested, based on the some of the assurances we were given prior to the PCs being appointed as our current government.

**Mr Curling:** Are you, the London Property Management Association, a member of the Fair Rental Policy Organization?

**Mr Amos:** No, we are not. We are supporters of them, though.

**Mr Curling:** Are you aware that FRPO agreed to rent control in 1986 with the guidelines and everything?

**Mr Amos:** Yes.

**Mr Curling:** And you are saying that FRPO is disagreeing with rent control now?

**Mr Amos:** Ideally in the landlord community, rent controls are not a good idea. We believe that the law of supply and demand should be used to determine rent levels. I believe, in speaking with representatives from FRPO, that they are of that opinion also.

**Mr Curling:** Did you know that FRPO also agreed for the rent registry to be established?

**Mr Amos:** Yes.

**Mr Curling:** What I'm trying to say here, Mr Amos, is that much of what the fair rental policy people are coming out with and stating and these developers, they're all agreed on this, and I presume the opportunity to say we have a government and we can wipe this out, and now they want a guarantee that any other government that comes in would never change it, which they can't get anyhow. Not even I or anybody else in that line can.

**Mr Amos:** I agree with that.

**Mr Curling:** Tell me something then. How do you feel about the cancellation of non-profit housing, which would have a great impact on affordability of those who want affordable units? Do you feel it was a good direction for the government to cancel out non-profit housing?

**Mr Amos:** Yes, I do. I believe there are other methods by which the government can assist those in need of affordable housing without providing the actual housing. The cost of it is immense.

**Mr Curling:** When do you think the industry will build for those people at that bottom end of the market? Most of the people at the lower end, with small income, low income, have to wait around until those on the higher end are satisfied with accommodation. When do you see that the industry will be satisfying those on the lower end? I don't think they have the money, and it's profitable for them to do so. How long a wait do you think there would be before this happens?

**Mr Amos:** That, of course, is dependent on the economy to a large extent. I believe that if the government is going to be involved with subsidizing housing, there are mechanisms it can use other than building subsidized housing. In other words, they can facilitate more people than they can at the present time.

**Mrs Boyd:** Thank you for your presentation. I'm curious about one thing. You started off by saying that you have about 200 members, 75% of whom are small property owners with 25 units or less. Can you tell us how many of those would be much smaller property owners? We've heard from some groups that when we're talking about affordable housing, when we're talking about the real problem of low-cost housing, we need to be looking at encouraging the building of very small units — one or two in a building and so on. What



proportion of your members would be very small land owners or property owners?

**Mr Amos:** Very small — you mean a few?

**Mrs Boyd:** Fewer than 10 units.

**Mr Amos:** Possibly 50%.

**Mrs Boyd:** Okay. Of your members, would you say there's a good mix and a proportional mix of low-end and high-end rental properties?

**Mr Amos:** Yes.

**Mrs Boyd:** The real focus here needs to be — as you probably heard from the presentations, the concern that we have — around the low end as opposed to the higher end of the market. You indicated that you first of all believe there should be no rent control regime at all, but then you made a statement that not only have the policies of previous governments prevented the building of affordable units, but the policies that are being proposed by the current government also prevent the building of affordable units. Other than just no rent control at all, what would encourage the building of affordable housing?

**Mr Amos:** The reason I made the comment that the elimination of rent controls would assist in this area is that there's a certain view of political intervention upon developers, even in the area of a small number of units. Everyone wonders what's going to happen down the road: Are they going to have the ability to recoup their investment, whether it be in the housing industry or any industry? Where you have a situation of intervention of any kind it makes people wonder. I think the elimination of rent controls would at least give some confidence in developers' minds that there may be some light at the end of the tunnel.

**Mrs Boyd:** It would satisfy some ideological perspective of how they use their money as opposed to the reality of providing homes for people?

**Mr Amos:** I believe so, yes.

**Mr Marchese:** Just a quick question: You said some landlords have not been raising rents over the last year, maybe two or three?

**Mr Amos:** Correct.

**Mr Marchese:** In this particular instance you say the market doesn't permit it, really.

**Mr Amos:** Yes.

**Mr Marchese:** So in these years rent control has not been a problem, has it?

**Mr Amos:** No, it hasn't.

**Mr Marchese:** But you want to eliminate it.

**Mr Amos:** We don't know five years down the road what the market is going to be like in that regard. We want to be assured that should the market bear it, we have the ability to collect those rents.

**The Chair:** Thank you, Mr Amos. We appreciate your input here this afternoon.

Is Rev Susan Eagle in the crowd? No?

1500

#### MORGHANNA MacISAAC

**The Chair:** I understand Morghanna MacIsaac is. Good afternoon. Welcome to our committee. We appreciate you being early. The floor is yours.

**Ms Morghanna MacIsaac:** Good afternoon, ladies and gentlemen. Thank you for coming to London. My name is Morghanna MacIsaac. I am a tenant living in a government-subsidized apartment who will be directly and adversely affected by the Harris government's proposed tenant protection legislation. I'm here today on behalf of the critically vulnerable tenants who live in subsidized housing, as many are unable to articulate their fears and a great many more are unaware of how they may ultimately be affected by this proposal. For this reason my remarks will be confined to the crucial issues respecting rent-geared-to-income housing.

I'm sorry, I'm very nervous. Please bear with me.

I need you to study me carefully and listen to me closely as I am but one of the millions of tenants facing potential homelessness under this proposed tenant protection legislation. Not so very long ago I was much like you: a gainfully employed taxpayer with a living wage, an affordable apartment I was comfortable in, interests and activities in which my paycheque allowed me to participate, and health good enough to keep it all going. One by one, each of these was lost to me on a significant level. My health failed and I struggled to survive on welfare during the long wait for approval of my disability benefits application.

I became enmeshed in the social services system where the London and Middlesex Housing Authority, herein after referred to as the LMHA, is a driving force in that vortex which can engulf the vulnerable and needy, killing their pride, eroding their self-esteem, and routinely relegating them to the status of faceless and worthless. After enduring nearly six years in this system, attempting to get well while constantly battling for my rights to fair, equitable, respectful treatment by housing and social assistance personnel, I present to you today as a tenant who will ultimately be forced into homelessness under the proposed tenant protection legislation: a middle-aged, single female, suffering disabilities which prevent her from seeking employment — which is next to nil at best in the general population and virtually non-existent in her age group — living in subsidized housing on a fixed income with no family or significant other to rely upon for assistance and support, economic or otherwise.

Specifically I wish to speak to the issues of protecting the most highly vulnerable tenants from landlord harassment and interference and ensuring these same, often fragile people are afforded competent, adequate access to justice in pursuit of their rights as tenants.

Under harassment and loss of affordable housing, I need you to know that as a tenant of the LMHA since 1991, my experience has been uniform in its elements of abusive maltreatment, interference, harassment, and diabolical discourtesy and disrespect for my personal rights, property and privacy. Additionally, I have endured chronic LMHA incompetence, which resulted in a condition of rental arrears on my account wilfully and deliberately been ignored when I have written letters of complaint, and been subjected to harassment and abuse which would rarely be attempted and never tolerated by either landlords or tenants in the private sector. I am talking about systemic abuse, ladies and gentlemen, and the LMHA is rife with it.



I would be homeless today without the guidance and support of London's Neighbourhood Legal Services on the four occasions I've been harassed and threatened with eviction for an arrears situation created by LMHA.

Most tenants in public housing are on fixed incomes, be they pensions or some form of social assistance. A significant number are former psychiatric patients discharged from closed chronic care units and group homes under this government's cutbacks to social programs. Others are victims of substance abuse, some lack education, are intellectually challenged, are fleeing violence or recovering from traumatic abuse, and some are comprised of the working poor. Is it reasonable to expect a major percentage of such tenants to be equipped to deal with threats, abuse and/or interference from a bureaucracy like the LMHA? Is it any more reasonable, as New Directions contends, to expect such tenants will possess the ability necessary to negotiate with a landlord for an affordable rent in market housing once they're fast-track evicted from their subsidized unit?

The proposed tenant protection legislation has systemic abuse built right into it in the form of vacancy decontrol, which in effect tells landlords the way to raise rents is to harass the current tenant to move out, and provides landlords the financial incentive to do just that. In order to counter the problem of harassment this government has admitted its proposal will create, it intends to introduce an anti-harassment protection unit, yet makes no mention of funding, policy or staffing requirements for this new bureaucracy.

My legally documented experiences with the LMHA have proved repeatedly that unless a tenant has the knowledge, courage and tenacity necessary to challenge the arbitrary, intrusive acts of this housing authority's personnel, the threat of housing loss looms very large indeed. For most, the mere threat is enough to drive them from their homes in fear and ignorance of their right to protest. Many London housing tenants are isolated from society and have no knowledge of the resources available to them, or are afraid to ask for help and/or don't know whom to ask. Many more are fearful of reprisals should they make a complaint of any sort and would rather tolerate unsatisfactory living conditions, enduring abuse and harassment, than risk loss of their shelter altogether. I know of others whose medical conditions have been dangerously exacerbated by LMHA agents who have harassed them with complete impunity.

Through my experiences with this housing authority, I've also learned that even the proscribed persons and/or bodies purported to address such abuses, that is, the London and Middlesex Housing Authority general manager, board of directors and the Ministry of Municipal Affairs and Housing, more often than not turn a deaf ear to or redirect a tenant enduring official abuse, finding it preferable to impugn the tenant's credibility rather than recognize an obvious breach of power and process by one of its own. In my case, one of my disabilities was used against me by the LMHA to summarily invalidate my very legitimate and thoroughly documented complaint.

From beginning to bitter end, my efforts to obtain reasonable, equitable treatment were deliberately ignored or actively frustrated by London housing personnel, and

mine is not a unique story. Many tenants have experienced multiple episodes of abusive arbitrariness on the part of housing personnel, which begs the question, does it make any sense at all to further empower the LMHA or a similar housing body with fast-track eviction processes when that body is demonstrably incapable of competent, temperate administration? Yet this is what the New Directions discussion paper is advocating, giving more power to landlords while leaving critically vulnerable tenants bereft of the protective legislation they've counted on for the last 25 years.

Most people are not in subsidized housing because they want to be, but must be in order to avoid living on the street. For many, subsidized housing is the last stop before homelessness. The years-long waiting lists for this type of housing clearly illustrate the critical shortage of affordable housing which currently exists for countless numbers of people in this province, chiefly seniors, the disabled, the chronically unemployed, those on social assistance and the working poor. The province has already killed cooperative and non-profit housing programs and is now considering selling its realty holdings in buildings like the one I live in. Should this come to fruition, I and millions in similar circumstances will become homeless.

Equally chilling to tenants is the ministry's premise that tenants must be protected from evictions without just cause, yet will permit an eviction which allows a landlord to tear down perfectly habitable affordable housing for profitable conversion purposes. How does such an eviction constitute just cause? How can an eviction because a tenant is unable to afford the down payment to purchase his or her apartment be deemed eviction for just cause? These are precisely the types of evictions which would be allowed by eliminating the requirement for municipal approval for demolitions, major renovations or conversions. Such proposals clearly weaken security of tenure, not strengthen it.

Loss of affordable housing will escalate weakening of tenants' bargaining power in the rental marketplace, create combative conditions between landlords and tenants and push the low- and fixed-income tenant into the street much more quickly, with far fewer timely redress measures for that tenant. How can this government possibly present a discussion paper which will condone economic evictions under the name "tenant protection legislation"? In order to protect the tenants in the units, it is necessary to protect the units, thereby dictating the Rental Housing Protection Act remain solidly in place.

#### 1510

Ontario's Ombudsman, Roberta Jamieson, stated the following in her annual report to the Legislature respecting the examination of all privatization initiatives to ensure accountability and complaint-handling are explicit and integral to any new schemes:

"The right of the public to hold public servants accountable for any unfairness in the provision of government services is one of the hallmarks of democracy. As governments search for solutions to provide services in a more cost-effective manner, it will be important to



address the issue of how the right to complain will be preserved where public services are delivered by private means."

It is imperative this committee understand that without stringent harassment protection, rigorous deterrents to same and rent-geared-to-income housing available to people like myself, we will have no place to live, nowhere to go but out on the street. One cannot get a mortgage on pension or social assistance income to purchase a converted unit, any more than one can expect to negotiate a fair and reasonable market rent on such limited income. The reduced rents we pay in subsidized housing are all that stand between us and homelessness, which for many would ultimately mean an early death. "Pure melodrama," you may say. I assure you most emphatically, this is the stark reality facing vulnerable tenants like myself under the proposed tenant protection legislation. We in disadvantaged circumstances will comprise the next inflation of homeless statistics in Ontario, unless the current Landlord and Tenant Act, Rent Control Act and Rental Housing Protection Act remain unchanged. There are no other options for us.

Under the heading of "Access to Justice," following is another quote from Roberta Jamieson, Ontario's Ombudsman, describing evidence of increasing despair in complaints to her office during her annual report to the Legislature. This neatly sums up the current dilemma facing the impoverished tenant population of Ontario:

"It would be tragic to accept that less money means less fairness when economic circumstances are making those who have the greatest contact with government more and more vulnerable."

Under the proposed tenant protection legislation, the Landlord and Tenant Act will be brought under a quasi-judicial tribunal and taken out of the courts, with a further plan to introduce a mediation service. My experiences have conclusively proved that without competent, knowledgeable legal personnel in my corner, I would not be before this committee today, for I would long ago have lost both my source of income and my living accommodation. London's Neighbourhood Legal Services is the only reason I retain both of these today. It is crucial that under any new system the decision-makers be knowledgeable and impartial in landlord and tenant issues, and not political appointments made by the current government.

Consideration is also being made with respect to charging application fees for addressing landlord and tenant disputes. A user fee system to protect one's rights is a gross injustice to all tenants. No matter how small such fees may be, they will absolutely preclude low- and fixed-income tenants from bringing legitimate tenancy issues to adjudication.

If mediation services are made available, they must be voluntary and be conducted by well-trained and qualified mediators. This is particularly crucial in situations where there is inequality of bargaining power, such as in the usual landlord and tenant relationship.

To conclude, the current Rent Control Act has a generous rent guideline, affording landlords rental increases of up to 5.8%, which is far greater than the

wages or pensions of most tenants will increase by this year, and dramatically preferable to the 22% cut in income suffered by social assistance recipients.

If the government goes ahead with the proposals in the New Directions discussion paper, it will mean the end of rent control in Ontario. Tenants will have their rents go up by more than allowed in existing law and there will be less affordable housing through vacancy decontrol and the elimination of the Rental Housing Protection Act. When combined with the government's decision to end the construction of non-profit and cooperative housing and the possible sell-off of public housing in this province, tenants like myself will absolutely have nowhere to live and will perforce swell the already burgeoning ranks of homeless persons in Ontario.

The social costs of this proposed legislation are too high and will destroy the lives of millions already severely economically and socially disadvantaged. It will deeply divide tenants with its provisions for widely diverse rents, create friction and animosity between landlords and tenants and ultimately force many previously marginalized poor into the street. Crime rates will rise as the dispossessed fight to survive in a climate of fear and hostility, while those fortunate enough to retain living accommodation will virtually be at the mercy of their landlords, accepting whatever treatment and living conditions are afforded them, so long as their shelter is not taken from them.

I refuse to accept this as the portrait of Ontario the Harris government consciously wishes to paint and hang for viewing in the world gallery. The government has an obligation to consider the interests and protection of all members of society and to provide a forum where legitimate grievances can be addressed. The proposed tenant protection legislation threatens all these things, and it is your committee which can prevent these threats from being carried out. On behalf of the frail, vulnerable and impoverished tenant population of this province, I urge you to do so.

Thank you for the opportunity to present these concerns and recommendations to you today.

**The Chair:** We've got about a minute per caucus for questions.

**Mr Curling:** I'll just make some comments quickly, then, because I only have one minute and I wanted to ask you a question. The government says that this is only a discussion paper that they have presented here, but as we speak, as you know, and before, the funding to tenancy advocacy groups has been cut. The most vulnerable people in our society, their allowance has been cut 21.6%. As we speak too the building code regulations that sometimes would have protected some of the people are being amended immediately — but this is only a discussion paper. Nothing's being done; we're only discussing this. But the powers that be make changes as we speak. Is this a government you can trust to carry out your discussion today?

**Ms MacIsaac:** Not by my standards, no.

**Mr Marchese:** Just a few quick remarks. First of all, I want to thank you for bringing your personal experience to this committee, because that's how we are guided, through the experience of people like yourself, and if we



don't learn from that, then I'm not sure where else we're going to learn from.

I want to tell you that institutional abuse in the way that you've described it at the London and Middlesex Housing Authority is inexcusable, in the same way that we find abuse with some tenants by some landlords is indefensible and inexcusable as well. Wherever we see it, we need to fight it.

You mention a number of interesting things that we need to worry about. It's interesting: People with power and privilege don't see the kinds of things that you're talking about —

**Ms MacIsaac:** No, they don't.

**Mr Marchese:** — so they'll dismiss you as being melodramatic.

**Ms MacIsaac:** Absolutely.

**Mr Marchese:** But everything you say here is of concern to a lot of people, including the sell-off of public housing, which should concern everybody else who lives in your complex as well.

The minor user fee is not so minor.

**Ms MacIsaac:** I don't know what it is. I just know it's a proposal and it scares me.

**Mr Parker:** Thank you for your presentation today. It was very compelling and tells quite an important story. I was quite concerned at your comments of the abuse that apparently you've suffered in your public housing accommodation. Clearly you're not happy with the changes that are being recommended here today, but I sense that you are not happy with the situation as it stands. Do you have any recommendations for any changes to the system that we currently have, any ways that we can improve it?

**Ms MacIsaac:** Frankly, I would like to see, and I have mentioned this to some people, an impartial board, or I will use "tribunal" because I don't know a better word at this time, to address concerns like mine for people like me in public housing, as opposed to having someone in-house to go to, such as I did in my situation. I went to the general manager and I went to the board of directors, and all of them interact. They serve each other's interests. I would like there to be an impartial body instead of tying up the resources of London's Neighbourhood Legal Services with things like this. They have such a caseload, the last thing I wanted to do was bring them in on this, but I needed their help. There was nowhere else for me to go.

**The Chair:** Thank you, Ms MacIsaac. We do appreciate your input here this afternoon.

1520

DAVID WINNINGER

**The Chair:** Our next presenter is David Winninger. Good afternoon, sir. Welcome to our committee. The floor is yours.

**Mr David Winninger:** Thank you very much, Mr Chair and members of the committee, for the opportunity of presenting today. I might indicate that as a lawyer, in the past, I've represented tenant associations in connection with rent reviews and landlord and tenant issues before the General Division. I'm also a former member

of the Legislature and a former chair of the London and Middlesex Housing Authority. I understand the previous presenter had a good deal to say about that.

While this discussion paper is fairly generally worded and not too specific, I think it's useful to provide commentary at this early stage on the proposed reforms, and hopefully there will be a further opportunity for public submissions once the legislation has been introduced.

First, dealing with the provision of housing in Ontario which the discussion paper speaks to, there are many reasons, I believe, why developers are not building new rental accommodation and landlords may not be investing in their buildings other than the mere existence of rent controls. The cost of labour and materials, interest rates, market conditions and demographics certainly play an important role in these decisions. Now that the baby boom wave has passed and many of those who previously required rental accommodation own their own homes, I believe there are not as many people entering the rental market for the first time as there were a few years back.

Many of those seeking rental accommodation cannot afford to pay the high rents that developers and landlords demand to feed their profit margin. This is why London can have a vacancy rate approaching 4% at the high end of rental accommodation while affordable accommodation is not available to our low- and middle-income earners.

Government investment in the non-profit and co-op sectors made good sense while it lasted. It provided access to affordable, quality housing. This investment also created jobs for building trades — architects, engineers, electricians, plumbers and so on — and a stock of permanent social housing was established as a permanent asset for the people of Ontario. This was halted with the stroke of a pen when the Conservative government took office in 1995.

Now this government, acknowledging the shortage of affordable rental accommodation in Ontario, proposes a system of decontrol/recontrol provisions to stimulate housing investment. When a unit becomes vacant, as I understand it, rent controls would be removed and rents would be determined by the market. Once a unit is occupied again, controls would be reinstated.

Dr Applebaum, a professor of sociology at the University of California who specializes in issues related to housing, studied the impact of rent controls in three California cities to assess the probable impact of decontrol/recontrol provisions similar to what this government is advocating. Similar claims were made: there was a shortage of low-cost housing, a rise in market rents compared to tenant incomes, and a lack of initiative and funding from state and federal governments to alleviate this problem. It was argued that by lowering profits and discouraging investment in rental housing, rent controls contribute to the crisis that rent controls seek to address, and pressure mounted to weaken rent control by imposing decontrol/recontrol provisions.

In his report published in 1991, Applebaum determined that half the renters benefiting from rent controls earned less than \$20,000 a year, and less than a third of them earned over \$30,000 a year. So that tells us something. However, with rent controls, the percentage of tenant income spent on rent declined. When Los Angeles



introduced decontrol/recontrol provisions like this government is suggesting, the percentage of income for rent increased, with the highest increase for the low-income earners. Further, Applebaum determined that under decontrol/recontrol, by the year 2000, the rent for a typical Santa Monica unit would be 72% higher under decontrol/recontrol than it would be under normal rent controls, and the rent paid as a proportion of income would increase to 41%. Similarly, the number of unaffordable units would increase under a system of decontrol/recontrol.

Applebaum concluded that rent control provides a low-cost alternative to government subsidies without appearing to have an adverse effect on local housing markets.

To now remove regulatory control of rent increases for new tenants is to me beyond belief. Many of these new tenants are the people who benefit the most from rent controls: seniors who move out of their homes, students seeking housing to attend college or university, and disabled people leaving institutions and seeking to live independently.

There is no requirement to remove controls completely from newly constructed units. Already there is a five-year moratorium on controls for new buildings that acknowledges development costs of landlords.

Rent controls have been finely tuned already to ensure that landlords have sufficient income to maintain their buildings while at the same time keeping rents affordable. Not only does the statutory annual increase provide for regular maintenance; the existing law further allows increases to cover capital expenditures for major structural repairs to meet health and safety standards, measures to conserve energy, to promote access to the disabled, and extraordinary increases in taxes and utilities. By increasing the cap for capital expenditures and removing the cap altogether for extraordinary increases in taxes and utilities, I believe this government is creating a recipe for escalating rents the average tenant simply cannot afford.

Further, the government is seeking to allow landlords to continue to build into their rent the cost of capital repairs long after the repairs have been fully paid for. Why should costs no longer borne be factored into calculations of the landlord's capital expenditures? Once the capital repair is paid for through above-guideline increases up to 3% and carryforwards for up to two years, this added cost to the tenant should be removed once it's paid for, as provided in the previous amendments to Bill 121, the Rent Control Act.

Further, in its discussion paper, the Ministry of Housing indicates that tenants must be protected from double-digit rent increases. If that is the case, there's no need to change the present law under the Rent Control Act, which does not permit such increases.

Further, adequate maintenance of buildings is safeguarded under the existing legislation by ensuring that landlords who do not properly maintain their buildings cannot qualify even for normal annual statutory increases. Under the government proposal, rent increases will still be allowed notwithstanding the work orders that exist against rental complexes.

It is foolhardy to seek to eliminate the rent registry. This is perhaps the biggest flaw in the discussion paper.

This enables tenants to know what the maximum rent should be. For years tenants had to do their own research, if they were lucky enough to have the skill, knowledge and resources to do so, to establish what the lawful rent should be. That involved calculating increases in rent for years prior to when they moved into a dwelling. They then had to compare that to the statutory increases allowed under a variety of successive legislation that established statutory limits.

The wonderful thing about the rent registry is that landlords can no longer get away with charging whatever rents they feel they can get away with. Many in London have in the past, and many rebates were finally awarded, but many tenants went without getting their rent rebated and the landlord was allowed to benefit from charging unlawful rents. So I believe this rent registry, which has been in effect since 1986 and has worked well for tenants, should not be eliminated.

The tenant, moreover, can no longer turn to tenant advisory agencies such as the London and Area Tenant Federation, which had its funding stopped by this government early in its mandate. What relief can there be for a tenant when she is pressured into signing an above-guideline agreement for rent to pay for a capital improvement or a new service when there's not even government approval required any more for these above-guideline increases where a tenant might be pressured into signing an agreement? Where does the tenant go to achieve equal bargaining power? Again, I believe this initiative should be stopped right now.

1530

If this government truly wishes to protect tenants from evictions and harassment and to promote security of tenure, there are many provisions already existing in the Landlord and Tenant Act which do exactly that and are designed to achieve these objectives. This act already achieves, I believe, the fine balance required to protect the tenant's rights while allowing the landlord to evict for cause.

In the past, since you're looking at changing the Landlord and Tenant Act, I've made a couple of recommendations for changes that could be introduced into the government legislation.

First of all, one change would specify that notices under the Landlord and Tenant Act that are served on people who lack sight, who are blind, would not simply be posted. I had a former constituent who was evicted from his unit when he didn't have the eyesight, the vision to see a notice that was posted on his door telling him where and when to report to court. When he finally found out, I believe it was too late. So if there were a provision in the Landlord and Tenant Act that would be sensitive to the needs of disabled people, I think that would go a long way towards protecting tenants better.

Secondly, there should be an obligation on landlords to provide receipts to tenants. I know of one London landlord who refuses to give receipts even for cash payments. When tenants finally need a receipt at the end of the year, this landlord has the temerity to charge a fee of \$25 or \$35 just to write out a receipt for rents already paid.

As far as alternative dispute resolution goes, I believe there's nothing wrong with facilitating access to alterna-



tive ways of resolving disputes between landlords and tenants as there is extensive documentation proving that such alternative resolutions work. Tenants, however, tend to have unequal bargaining power with landlords, so funding should be restored to tenant counselling services across Ontario such as the London and area tenant federation.

Decision-makers must function independently and be appointed by order in council. I'm speaking now to the method of adjudication. If we take the adjudication in landlord and tenant matters away from the courts and place it with a statutory authority — a board or a commission that has the authority to do so — these people must be independently appointed and be seen to be impartial. They should apply for these positions and be carefully screened as they will be exercising quasi-judicial powers that affect a very basic right of a tenant, and that's the right to shelter.

Decision-makers should not tender at the cheapest price, as indicated in the discussion paper as one of the options, as this will encourage decision-makers to substitute quantity for quality in their decisions. Neither should decision-makers be a department of government, as they will be perceived to be partial. Just imagine a government official ordering an eviction from public housing from the London and Middlesex Housing Authority. A conflict in roles would clearly be seen in a government employee making such decisions.

I believe it is appropriate that appeals from these statutory decisions, these administrative decisions, still lie to the Divisional Court on matters of both fact and law. I don't necessarily agree that there should be a rehearing in every case.

However, please do not regard such a system of adjudication as just another opportunity for a revenue grab. While landlords will almost certainly have the financial resources to pay greater fees for access to adjudication, tenants on the whole will not have the wherewithal to pay those fees. I believe if adjudicators have the ability to award costs at the close of their decisions, it will deter frivolous cases and applications from being brought before the board, if that is what is established to deal with these issues.

I believe it is contradictory for the government in its discussion paper to decry the lack of development in rental housing and then propose to water down the Rental Housing Protection Act. While this government proposes to protect sitting tenants, there will be no requirement for municipal approval of demolitions, major renovations and conversions of rental buildings. I'm surprised that municipalities are not actively resisting this fettering of their ability to plan how housing needs might best be met.

For example, residential intensification may be hampered as developers choose to build in the suburbs and tear down or convert from apartments in the inner cities. There is already a problem with landlords pressuring out tenants so they can convert to condominiums. Such a proposal will contribute to the destruction of affordable city housing and I believe reduce the number of units currently available.

As far as care homes go, I'm surprised that the government would seek to roll back many of the rights allowed

residents of care homes under Bill 120, the Residents' Rights Act. Certainly Professor Lightman had taken the time to make a comprehensive report on how security of tenure for care residents could be improved, and action was taken that acknowledged the special attention these care home residents require. Now it is proposed that fast-track evictions, often referred to as green-garbage-bag evictions, be reinstated. Further, privacy needs may not be respected when vulnerable people, including seniors and the disabled, can be coerced into signing agreements that give staff carte blanche to enter rooms at will.

Finally, on the issue of mobile home parks and land-lease communities, legislation was passed with the consent of all parties in the previous government to better protect the rights of tenants in mobile homes and land-lease communities and to give them many of the same protections that are enjoyed by other tenants. Built into the annual rent increases is a capital cost component which is designed to cover infrastructure upgrades such as water and sewer systems. Why should landlords in land-lease and mobile home parks simply pass through their capital expenditures for infrastructure upgrades when such costs are already provided for in the increases to the base rent? I imagine the only reason must be to drive up the landlords' profits.

It would also appear that this government may be intending to prevent tenants from erecting For Sale signs on their mobile home lots by restricting these signs to bulletin boards and windows. This would certainly play into the hands of the mobile home park owners that make a very decent profit from reselling mobile homes of tenants, and they're a very captive market, as many of you know.

Those are my remarks today. If there's any time for questions, I'm happy to entertain them.

**The Chair:** Mr Winninger, thank you. You've used up all your time except for a couple of minutes, which isn't an effective time for questioning. Do you have a final comment you'd like to make?

**Mr Winninger:** Again, this is just a preliminary discussion paper and I think it's designed to provoke some thought and maybe focus on some of the reforms that are needed, but I would urge this government, when the time comes and the legislation is introduced, to afford the public the same opportunity that they're afforded now to come forward and make submissions in an effective way.

**The Chair:** We appreciate your input here today.

#### EAST LONDON UNITED CHURCH OUTREACH CLUSTER

**The Chair:** Our next presenter is Rev. Susan Eagle from the East London United Church Outreach Cluster. Good afternoon. Welcome to our committee. The floor is yours.

**Rev Susan Eagle:** Thank you very much. There are some copies of my brief that are about to be brought up to you that are at the printers.

I'd like to begin by explaining the capacity in which I come to speak to you today. I'm a community worker in London; I have been for the last 12 years. I work for a



cluster of United churches, seven United churches and a Presbyterian church, that do outreach work. It is in the capacity of dealing with tenants who've had housing problems for the last 12 years that I speak to you today.

While statisticians describe vacancy rates, I assist people who are searching for affordable housing where at the end of the day, no matter what people say the vacancy rate is in the city, the vacancy rate for those folks is zero. While emergency housing agencies can describe increases in the numbers of homeless people coming through their doors, I deal with people who don't even figure in those statistics because very often they have doubled up with other families and hope that neither the landlord nor children's aid will discover that fact and consider it unacceptable.

1540

It's for that reason today that I wanted to speak to you about some of those real-life situations that I have encountered out in the community.

The United Church of Canada has for a long time been an advocate of stable housing out of a belief that housing affects not only the physical wellbeing but also the emotional and psychological wellbeing of people. Healthy people need healthy housing.

My own experience in the community has been to observe that one of the most critical factors of achieving any quality of life is indeed the procurement of stable housing. That includes not only the issue of affordability but the housing condition itself. I've discovered that very often those two are mutually exclusive, that decent housing is very often expensive and affordable housing is very often in deplorable condition. My concern is that I see nothing in your proposed legislation that will effectively remedy that problem.

The New Directions discussion paper does deal with the cost of housing but it deals with it from the perspective of how to cause builders and developers to create more. I don't disagree that builders and developers and landlords need to be able to make money out of their investments.

However, the paper suggests that one significant problem with the current system "is that it discourages capital investment, both in existing buildings and in new supply," and points to the lack of new construction in the last few years as proof of that fact. My question is, if the government is so concerned about the lack of new construction, then why did it so precipitously cancel the 300-plus new construction projects that were already approved when it took office last June? All of those projects were to be built by builders and developers working in consultation with the community. In addition, many of those projects were to deal with hard-to-house people, with whom landlords and developers very often don't want to deal.

Doing away with rent control may encourage landlords to build more housing, but if so it's out of some false belief that if the restrictions are taken off they can charge more money. The removal of rent control does not change the reality that many tenants don't have money to pay. The real problem is affordability, and it won't matter how much new housing is produced if no one can afford to live in it. The subtle suggestion that there a lot of

tenants out there who could afford to pay more if only landlords could get at them is simply not borne out by fact, at least not by the experience that I've had in the community.

What the removal of rent control will mean, though, is that more tenants will struggle for less and less housing and find it harder and harder to pay for it. As rates go up they need to search for smaller and less well maintained housing units to offset the higher costs.

Landlords will continue to justify poor housing conditions on the grounds that it's the only way they can afford to make it affordable for poor people to live in.

Your discussion paper asks how capital expenditures should be calculated and whether there should be an eligibility test. It's critical that there be some independent assessment and that the obligations of regular maintenance be excluded from capital expenses. We already have the problem of landlords who allow a building to fall into disrepair so that major repairs can be passed off as capital improvements.

While I haven't always found the rent control office to move as quickly or as efficiently as I would like to see them, I do believe that it's important to have an office and maintain the capacity for doing assessment and monitoring of those situations.

The issue of maintenance: I need to tell you that when I first began as a community worker in this community, I asked an inspector one day about the poor housing stock in this city. His response was to say, "There are about 1,000 bad housing units in this city, but if we condemned them all where would the people go?"

Where too would those tenants be able to go if they had to pay more money for housing? That problem has only worsened since last year when social assistance cutbacks were introduced and people have even less money to seek decent housing.

There are two critical issues I see with maintenance according to your discussion paper. The first is budget problems with the requirement that municipalities take more responsibility for enforcement of standards. The system in London is set up only to respond to problems. It doesn't undertake monitoring or education or prevention, and already there are delays in the system that we presently have.

Attempts to streamline the system have been made, but enforcement is not strong. As we discovered with housing conditions at the Cheyenne apartments, where I have worked for the last number of years, the standards bylaw provided only a minimum standard and the allowable delays in the system meant that it took more than five years before standards enforcement reaped any significant benefits.

During that time tenants' health and safety were jeopardized, and I cannot see anything in your discussion paper that improves standards enforcement at a time when there is going to be fiscal restraint. How are you going to ensure that it happens and that municipalities put money into it when there are budget cuts? In fact, downloading responsibility exclusively to municipalities while doing away with rent freezes makes the situation even worse. That's my concern. At the Cheyenne housing it was only the provincial application of a rent freeze and



visits from the provincial enforcement officer that finally made a difference in that situation.

In answer to the question raised about the discussion paper and provincial oversight, I think it's very important that the province continue to stay involved in that aspect. You also can't ask people to enforce standards if there is no acknowledgement of how that's paid for.

The alternative dispute part of the discussion paper, I'd like to speak to that for just a moment. I was part of a community group here that explored the possibility of alternative dispute resolution in dealing with landlord-tenant matters. Out of that research we proposed to the city and the province that a pilot project be undertaken that never materialized, but I continue to believe there are some landlord-tenant matters that can be resolved through mediation and/or arbitration. This needs to be done cautiously and through voluntary pilot projects.

The court system, with its adversarial environment and the fact that a situation is usually at a crisis point before it's dealt with in the courts, means that even if the situation gets resolved, usually the two parties have become far too polarized to ever have a harmonious relationship after that. Very often the tenancy is simply terminated. A landlord-tenant situation is not just a contract. It's an agreement between two people around living conditions, so the sooner we can resolve it and mediate it and come to some kind of harmonious resolution, the better for both parties involved.

Even if we move, though, into any kind of resolution of dispute, there are a couple of things I think need to be acknowledged. One is that there is an imbalance. Repeatedly I have dealt with tenants who were afraid to speak up about housing conditions or other matters because they were afraid of reprisal, and they were aware there was no other accommodation available for them if they did speak up and make a fuss about the existing housing. Negotiation for tenants with landlords is only possible if they know they've got another option and another place to go. For tenants who are desperate, there isn't an option. Already I've had tenants offered even reduced rates if they'll say nothing about housing conditions. Your discussion paper does not acknowledge those concerns. It doesn't look at how those concerns might be addressed.

It seems to me your discussion paper was drafted from the perspective of landlords and bureaucrats. If that's not so, I'd certainly like to know, but there is another perspective that dearly needs to be inserted into your discussion paper: the situation from the community, where people are struggling to survive.

I hope that you would take a further look at some of those issues I have further outlined in the paper I've presented. In addition, in the appendix at the back four pages of the report you'll see I have taken seven examples from your discussion paper and added a further ending. I don't know if I've got time to share a couple of those with you.

The first example in your book, on page 2, talks about Darcy, a landlord who makes major repairs to the building's balconies and gets 2.8% increase in repairs. The rest of the story goes this way.

Darcy has a long history of delaying maintenance until the problem becomes a major repair. Since the balcony

repair was granted a 2% increase above the guideline, he lets the roof and walkways go. He negotiates a slightly higher rent with a new tenant because he promises that repair work is about to begin. He continues to delay repairs and does a major renovation job and applies for an increase above the guideline. Since the rent registry has been terminated, there is no way to know that he has already increased rents significantly. Tenants living in the building are already stretching their budgets to pay for poor housing. Many are living on fixed incomes. Now they are told they will have to pay more or leave.

The last example I want to use, just at the very end of my appendix, is number 7 in your book, page 8. This is the story of Celine. Celine is aggressive, anti-social and noisy, making life miserable for landlord and tenants. "In the new system the time it takes to remove a tenant will be shortened considerably. Currently, it can take up to five months."

The rest of the story on Celine goes this way. Celine was in line for non-profit housing, but the project was cancelled by the province just after the June 1995 election. Celine was looking forward to the non-profit because community supports for hard-to-house residents were included in the planning. Now that the project is cancelled, Celine will go from private rental to private rental, with continuous disruption to her lifestyle that makes her more insecure, aggressive and hard to live with. She will be constantly evicted, even more quickly with the new streamlined system, by landlords who will justify their actions on the grounds that she a problem. Celine will join the ghetto circuit until she finally ends up on the street. Thank you very much.

1550

**Mr Marchese:** Thank you for bringing some of these experiences of yours to our attention. It's these kinds of things that I think we need to know about in terms of problems that people who are marginal, people with mental illness, people with disabilities and people with low incomes generally have to face. It seems to me that we need systems in place to protect them.

The government and landlords say, "We know there are a few people who are needy, or some people are needy, so all we have to do is provide shelter allowances and that would take care of those who are in need." Does that deal with it?

**Ms Eagle:** It doesn't even begin to deal with it. It's very hard to explain it all, if you haven't been out in the community with people who are struggling, in a really fast 20 minutes, but shelter allowances alone simply will not do that.

In the Cheyenne community we worked for five years before we were allocated housing co-op status. We had to jump through all kinds of hoops set up by the ministry, and I don't disagree that those should have been there, because we had to prove the need; we had to show how the community was coming together; we had to demonstrate that developers were not building large units and units for the ethnic community that was living there.

A shelter allowance simply doled out to a few people here and there won't even begin to provide the kind of stability of housing that people need.



**Mr Marchese:** On the other hand they argue that the kind of housing we've created, the NDP, in terms of cooperative housing and non-profit housing is simply too costly and the taxpayer has had to bear a great deal of that cost and it's rather unfair for the taxpayer to have to pick up that cost.

**Ms Eagle:** Let me respond really quickly to that. We were allocated startup money for the co-op last year, and all that startup money would be paid back to the government with the first mortgage draw we would get. The government sent us a cheque for \$30,000 and the next day cancelled our project, thereby making us ineligible to get the mortgage that would have allowed us to repay the government money. There is nothing more wasteful than what happened last June and July with the cancellation of the housing projects, because we paid it back through mortgage.

**Mr Maves:** I don't know what the case is in London. I usually ask this in each city; you seem to be quite involved with housing in the city. In Toronto there's a great inequity in residential property taxes and apartment taxes. People in apartments pay four and a half times the tax rate that people in residential properties pay. Is there a similar inequity in London, and what is it?

**Ms Eagle:** I'm sorry, I can't answer that question.

**Mr Hardeman:** Thank you very much for your presentation, Rev Eagle. You speak to the Cheyenne situation and the inability of the city to correct that problem. In the proposal we have the ability of the municipality to correct the problem and charge it back as taxes, in the form of taxes on the property. Do you see that as a benefit to the type of situation that you had?

**Ms Eagle:** Yes, and at Cheyenne it was done in that situation, where finally the city went in and cleaned up the cockroach infestation and some of the dangerous conditions that had been identified by Ontario Hydro and then billed that back to the landlord through taxes.

I was trying to say that I think the province and the city have to work hand in hand. It can't simply be offloaded on the city, especially when municipalities right now are looking for ways to save money, and I know that tenants don't have a loud voice when it comes to being a priority when there's a budget cut happening.

**Mr Curling:** Thank you very much for your presentation. You speak of the most vulnerable in our society, and we are very grateful to have an individual like you addressing that.

I presume some of the decisions which were made previously by the government have made your work a little bit tougher. How do you see a proposed speculation by this government to sell off the 85,000 units they have now and getting into the hands of the private sector? Would that give you a greater challenge?

**Ms Eagle:** Yes. There's a waiting list now.

I also serve on the board of the local housing authority and chair the city's advisory committee on housing, so it's from all those different aspects that I speak, although I'm trying to just wear the one hat today. But yes, the more we do away with affordable housing and social housing for people, because I consider not just public housing but social housing, the more difficult it becomes, and we're back to the inspector who said, "If we con-

demn this housing, where will those people go?" We're going to have more — people are caught. You can't condemn housing if there is no other place for people to live.

**Mr Curling:** I'm trying to understand some of the social responsibility of government, because I have asked the Minister of Housing quite often in the House, who said he wants to be out of housing. I try to find in New Directions any kind of hope that we could protect tenants and the most vulnerable. Is there any part of the New Directions paper for discussion where you see any hope?

**Ms Eagle:** Yes. Some of the goals that the government has identified; I like some of the goals that are listed and I'd like to see them actually act on them and seriously implement them: the one about protecting tenants etc.

I believe that encouraging municipalities to take more responsibility around enforcement is very important. I like the section on alternative dispute resolution, with some cautionary provisos. But my big concern is to even start with the attitude that the government should get out of housing. As soon as you get out of housing, you push the problem into other areas.

Where you have tenants who live in bad housing you end up with sick people; you end up with people who don't go to school properly; you end up with all kinds of other problems in the community. Good housing is a preventive thing. It saves you all kinds of other costs down the road. It would be irresponsible for a government to say they want to get out of housing.

**The Chair:** Thank you very much, Rev Eagle. We appreciate your attendance and your input here today.

We're now recessed until 5 o'clock.

*The committee recessed from 1557 to 1701.*

## OLD OAK PROPERTIES INC

**The Chair:** Good evening, ladies and gentlemen. Welcome back to the hearings of the standing committee on general government. Our first presenter this evening is Bernie Bierbaum from Old Oak Properties. The floor is yours.

**Mr Bernie Bierbaum:** First of all, I thank you very much for your time. I'm going to make my presentation brief. I appreciate your patience in listening to the various submissions.

Old Oak Properties has developed, constructed and managed properties in the London area since 1955. Approximately 50% of our portfolio is in residential rental properties. The remaining is in high-rise office buildings and warehousing. The warehousing consists of 34 multi-tenant buildings. The office portfolio consists of five office towers downtown. Our residential portfolio consists of 2,600 one-, two- and three-bedroom rental units in 22 locations in the northwest and north-central areas of the city, as well as downtown. Old Oak owns and operates all of the above with approximately 100 employees.

The residential units were constructed from 1955 to 1994. In 1994, we stopped residential construction, laid off all of our approximately 100 construction employees and have consequently sold 95% of our construction equipment, including overhead cranes, concrete batching equipment and excavating equipment.



I am the vice-president of development for Old Oak Properties. I began working full-time in 1976 in the development of commercial, residential and industrial properties. I was born and reside in London, and I am a major shareholder in Old Oak Properties Inc, which is a family business.

The market today in London is a free market. As mentioned earlier, we stopped building rental housing in 1994, after a period of 39 years of growth. Depending on the site, it takes an average of five years for us to prepare a piece of land for construction. In the late 1980s, we had intended on building a new 200-unit building in spring 1994 as part of our 10-year construction plan, but found that market forces proved that rental rates were too low to support new construction, even on land that we had owned for many years. Had we purchased the land recently, the option of developing the property could not have been considered. We were forced to lay off all construction employees and sell off all our equipment, as mentioned, because in our opinion a market change would take at least five years. The market had finally stopped us from constructing new residential units.

In existing occupied rental residential space, the competition was so intense that we were offering free rent, rent discounts, new carpets with choice of colour, new paint in all units and overall reduced rents. This condition still stands today.

The existing maximum rent system, which shows a variance of up to 20% over the market rent, gives us the window to possibly escalate our rents through leasehold improvements. We watch our competition carefully, provide a superior product with additional investment, and the tenant receives the benefit.

You'll notice a chart showing the municipal address of various locations and apartment units in London. You'll see the legal maximum rents and the market price. As you look at the chart, you'll notice the big spread between the legal maximum and the actual market price. There are several one-bedroom units in there. The higher-rental-rate units, for example, at 251 Platts Lane, unit number 220, with the legal maximum of \$824, the actual market price is \$729. I could give you a chart that goes over several pages that shows this condition. This is the condition that we have throughout the city.

I suggested earlier that London is a free market and I base that on the following facts.

Although vacancy rates are shown in about the 4.5% level by Canada Mortgage and Housing, the actuals in the industry on units constructed from 1970 to date are closer to 10% to 12%. It is a renter's market and rent control in its current form does not affect the majority of rentals in the London market.

Maximum rent is up to 20% or more above market rents. Net rents have been decreasing in London over the last 10 years since costs have been increasing.

Because of open competition, London's rental accommodation quality is good to excellent. London landlords have a good reputation and the renter receives the benefits.

Eliminating rent control will not affect the London market. Because of the current oversupply situation, nothing would happen for many years if we eliminated

rent control today in the London market. We know that rental accommodations must have low rents because of the competition, and that will not justify investment in new residential accommodations in London for many years.

We are requesting that you do not change the existing legal maximum rent level to the proposed takeaway of legal maximum on first turnover. If we cannot see an opportunity to reach the current legal maximum rent on existing tenants, we and other landlords will seriously consider leaving the marketplace since there will be no incentive to invest.

**1710**

We are fortunate that our 2,600 units in 22 buildings can balance out any individual net cash flow losses at this time. What I mean by that is, from year to year, depending on the investment that we've put on the buildings, whether it's in roofing, windows or inside replacements, we are constantly juggling, because of the intense competition, the net losses from one building to the next. For those landlords who cannot, I can see them handing back their properties to lenders for mortgage value or less. Many honest, hardworking landlords could be wiped out and tenants would have deterioration of their buildings.

We need a reason to stay in the rental housing business. Our industry invests into the future. We will take a risk if we see an opportunity. Raw land can take up to 10 to 15 years of development time to bring it into the marketplace serviced. As I mentioned earlier, even serviced land, when we go through the process of negotiating with the municipality, when we go through the engineering that's required — that can take up to five years. If we do not see a possibility of an opportunity, we will not provide rental housing.

How can our Ontario government set a policy to satisfy landlords and tenants? Of course, that's the million-dollar question. I understand that the majority of Ontario's rental accommodations are in the greater Toronto area. The political reality historically has been that the GTA solutions have been imposed on other Ontario markets, where the results are the reverse of the GTA. I have a recommendation or a suggestion: If our government can regionalize policies, it will have the flexibility to react to market changes in separate geographic areas.

We support the existing maximum rental policy. It gives us the hope that we may some day reach our legal maximum rent. We maintain our buildings beyond our competition and provide excellent management. If the vacancy rate reduces, we can plan on providing more new rental accommodation. If rent control is eliminated, it will not affect our rents because of competition.

I wish you the best in finding a solution that satisfies both the GTA and the other Ontario markets.

**Mr Smith:** Thank you very much, Mr Bierbaum, for your presentation. In your paper you describe the London market today as a free market. I want to get your opinion as to whether or not the move to a decontrolled system will have any negative impact on the rental market in this city, and in the area for that matter, given your statement that we're essentially in a free market situation now.



**Mr Bierbaum:** I mentioned earlier that in my opinion, if there was no rent control in the London market today, there would be no negative impact for tenants.

**Mr Smith:** One of the other issues we've heard in a number of cities is the disparity or discrepancy that exists between taxation levels on rental units versus single-family residences, for example. In some cases we've heard that the difference is as much as four and half times the taxation burden on rental accommodation. What is the situation in London with respect to that particular issue?

**Mr Bierbaum:** I can refer to one example. We have a 16-storey apartment building downtown that is registered as condominiums. We have developed it in such a way that we rent the units until such time as they're sold. When the condominiums are sold, the actual tax rates are about half those of the rental rates.

**Mr Smith:** Tenants, from what I've seen, are paying a higher share of municipal property taxes than are single-family dwellers or others. Would that be a fair conclusion as to your experience?

**Mr Bierbaum:** In our particular properties, yes.

**Mr Smith:** The recommendation you put forward about rent control policies on a regional basis: Do you have any concerns about what the impact of that might be in terms of outmigration of tenants to other communities and the capacity of those communities that might receive new tenants to capture them within their framework? Do you have any concerns about regionalized policies?

**Mr Bierbaum:** Again, the London situation is very unique. We're a satellite. Migration — we're surrounded by an agricultural circle. In this particular area I can't see that being a problem.

**Mr Curling:** I wanted to say thank you for your honesty and forthrightness. You're one of the first developers who has come and said openly that the bogeyman is not really rent control. As you said, whether it's in or out, it wouldn't affect what's happening here right now. I tend to agree with you. As a matter of fact, I don't think rent control has anything to do with the fact that we're not building. It's because of affordability that people are not renting. Also, there's availability. As you said, there is a 4% vacancy rate in London, and in 1994 you said there were 1,134 people on the waiting list. It still doesn't address the affordability aspect of it.

Any suggestion of what the government could be doing in addressing those in need at that bottom end of the ladder? If you rent out those vacancies you have today, although you're giving all this free stuff, benefits, to tenants who can afford it, still there are people at the bottom end who couldn't pick up your wonderful apartments, and I'm sure you're on the verge of even losing some. Any suggestion of what the government could be doing in the affordability area?

**Mr Bierbaum:** We have a range of rental rates that start in the \$400 range, up to product that is in approximately the \$1,000 per month rental range. Those numbers include utilities, cable TV and, in some cases, underground parking.

I've received, to me, disturbing facts that in subsidized housing the actual subsidies are close to \$400 or more and in addition to that there's another \$400 in payments.

My recommendation is that the private sector — and obviously we in the private sector have samples of product available at \$400 — can provide that without subsidies.

**Mr Marchese:** Mr Bierbaum, do you think there are going to be any increases in rents as a result of decontrol?

**Mr Bierbaum:** As I mentioned earlier, in the London market, because we have an extreme oversupply, we have the cash reserves, we have the raw land that's available and serviced to build apartment buildings right now. In fact —

**Mr Marchese:** I was asking, once decontrol comes into effect, where landlords can charge whatever it is they think they can get on the unit, do you think increases will happen?

**Mr Bierbaum:** In London at this time, I could not afford to build another apartment building and I can't afford to increase my rents.

**Mr Marchese:** So tenants here have nothing to worry about.

**Mr Bierbaum:** No. There is an oversupply in London. There's incredible competition. We couldn't do that.

**Mr Marchese:** In terms of decontrol and rents generally, we heard earlier from somebody who said they have not given a rent increase in their buildings for quite some time, two, three, maybe four years. Is that your experience?

**Mr Bierbaum:** That's true. We have buildings where we have reduced the rents as they come up.

**Mr Marchese:** So rent control is not a problem.

**Mr Bierbaum:** No.

**Mr Marchese:** If rent control is not a problem, why do you want to get rid of it?

**Mr Bierbaum:** Perhaps I didn't expand on that in my presentation. I fully support the existing rent control system, which has a legal maximum. That maximum is up to 20% over the current market rents. I support that 100%. What I do not support is the recommendation that if a unit became vacant, that unit would no longer be registered at the previous level, but the new registration would be 20% lower.

**Mr Marchese:** I wasn't asking that. I was asking —

**The Chair:** Thank you, Mr Marchese, and thank you, Mr Bierbaum. We do appreciate your coming forward this evening and giving us your input.

1720

#### BILL ARMSTRONG

**The Chair:** Our next presenter is Bill Armstrong. Good evening, sir. Welcome to our committee.

**Mr Bill Armstrong:** First of all, thank you for having me here. My name is Bill Armstrong. I am a paralegal. I have been a paralegal since 1985, representing tenants, mainly, in front of the rent control system. For the last couple of years I've represented both landlords and tenants in front of the rent control system and the courts. Over the years, I or members of my agency have been in front of — I think this is our third set of committee hearings on rent controls or rent review or whatever you want to call it.



I think I have a bit of experience with rent controls. I've handled literally thousands of cases here in London in front of the different tribunals, both single claims for illegal rents and also a large number of claims to do with large increases of 20% to 30%, which came under not the rent control legislation but its predecessor.

My main comments after reading over your document are that, first of all, I think eliminating rent controls for older buildings would be a mistake. I think this would cause unnecessary hardship for tenants in that the affordable market would quickly disappear. Based on my years of experience in the area of rent controls, I believe you would see over a period of a year or two the older units' rents rising between \$50 and \$100 per unit per month.

One thing I would support is certainly a consideration of eliminating rent controls, but only on new buildings. This would achieve what I believe the government is trying to achieve by stimulating new growth in new rental units.

Some other observations I had in reading over your material: eliminating the rent registry. I think the rent registry is necessary if you're going to have rent controls; obviously, with no rent controls, no need for a rent registry. But my position is that rent control should stay, at least on buildings that exist now. I just don't understand how you can justify that that's going to stimulate new growth. It's just not going to happen.

Another area is the increased fines. Fines, I believe, are \$20,000, \$25,000, and you want to raise them to \$50,000. Whatever the new amount might be, the fact is that during my years of experience I've never once seen a fine levied. I've seen the most horrendous cases brought before rent control and not once did I ever see a fine levied. I can't speak to what's gone on during, let's say, the last year with the new government and how the rent control system is today. It's the same legislation but a new government. Maybe they've tightened up on people who are abusing the system. But I have to say, under the previous two governments, there was a lack of activity in enforcement as far as illegal rents were concerned. If rent controls are going to stay, there's no point in increasing fines if you're not going to fine anyone.

Those are the main areas I'm prepared to speak to now. I'm happy to entertain questions.

**The Chair:** Beginning with the Liberals, we've got about five minutes per caucus.

**Mr Curling:** You've given us a good opportunity. Most people leave us a minute or so in which to ask questions.

There are certain things the government has put in place now that are poised to eliminate rent control. That's what they intend to do; that's the effect of this discussion paper. The concern I have is not so much for those who can afford access to rental accommodation, and "afford" means that the income they have does not allow them access to decent, safe accommodation.

What suggestion would you give the government to help people have access to affordable accommodation? In London, although there is 4% vacancy, I'm sure that what is available and affordable for those people is much less. About 1,100 people now seek accommodation and I'm

sure a high percentage of those can't afford even \$400 or \$500 for a one-bedroom or two-bedroom unit. What suggestion would you give to the government?

**Mr Armstrong:** I guess the most important thing is preserving the affordable housing stock, and traditionally, affordable housing stock has been the older units in older buildings. By lifting rent controls, the rents will increase. Even with a 4% vacancy rate, which is a figure that's been mentioned, I believe those are probably what we would consider middle or high-end units, not low-end units. I think the issue is basically preserving the stock, and by eliminating rent controls, that stock of affordable units will quickly disappear.

**Mr Curling:** As to the public housing that the government owns, although no mention of it was made in New Directions, the minister from time to time has mentioned selling off those units. Do you feel that is another blow for the affordable stock we have?

**Mr Armstrong:** I realize the new government's taken a different direction in co-op housing. Personally, I think that was a mistake. I think that was an area that should have been pursued. It brought new units on line, new affordable units. There was a market for those units. To eliminate those units from being available left people in lower incomes looking only at the older buildings and older units, and in many cases not units that younger families might be interested in: town houses, that sort of thing.

**Mr Curling:** You said they could take rent control off new buildings. Presently and in the past, buildings that are new are not covered under rent control for five years. You're saying that any new buildings now should not have rent control in perpetuity?

**Mr Armstrong:** That's an interesting point. There was a time when new buildings, built roughly between 1975 and 1985, weren't under rent controls. I very clearly remember many of the different groups, which I know are or were here today, using that as a reason why there weren't any new buildings being built. But the fact is that when rent controls weren't on new buildings there weren't any buildings being built then either. So to suggest today that lifting rent controls is going to create a new boom in housing — I really seriously doubt that. There's a history here. We've been through this before, and I just don't see that as being something that's going to happen.

**Mr Curling:** So you wouldn't be in agreement with taking rent control off new buildings then? You'd keep the same five years that is given right now?

**Mr Armstrong:** I would suggest that that policy should continue, yes. On new buildings, no rent controls. 1730

**Mr Marchese:** Mr Armstrong, I'm not sure how long you were here for these deputations but you may have heard a number of landlords saying that decontrolling the system will not affect the market too much because, they argue, as Mr Hardeman often reminds us, the landlords are not charging to the legal maximum rent at the moment. So because we have a system that basically is working at the moment as it is, they really can't afford to increase rents because people can't afford it. So then, I asked him, if that's the case, why do we need to elimin-



ate rent control and I didn't get a good answer from the person before. I don't think I got an answer.

Are you worried about that? They say: "Don't worry, we're not charging up to the maximum rents right now. We can't really afford to do any increases and, by the way, with decontrol, we're not likely to increase the rents because of those factors." Shouldn't that relieve you of any concerns you might have?

**Mr Armstrong:** I think that not charging the maximum rent may be true on some units. On other units they may be charging the maximum rent, so I guess someone could sit here and say: "Yes, we aren't charging the maximum rents. If rent controls came off on this building tomorrow, we wouldn't raise the rents to the maximum." That's simply because, obviously, they couldn't rent it for the maximum.

We have to remember we went through a period of time not too long ago when some landlords were in front of rent controls year after year receiving 10% and 20% increases because these were buildings that were just losing a lot of money and on the books they could justify these increases, though they could never rent these units for these rents. I think in a lot of these buildings, the high rent that was established and set a while ago has carried through and that's why they can't go to their maximum rent today. But again, by lifting rent controls, you've got these older units, because the rents are controlled, the rents are low, people stay there a long time, this may in fact keep the market, even on the more expensive units, down a bit.

**Mr Marchese:** I should say, Mr Armstrong, for your benefit, because it supports much of what you've been saying, people are very worried, and I can't see that tenants could be so dead wrong about their experiences as tenants over the last 20 years. They must know something that I don't know, that they don't know if they're not landlords, and so we've got to take guidance from people who have to suffer through the tenant-landlord relationship. So they say, "If you decontrol, we're very worried and we're likely to experience increases." I believe that to be the case, although the landlords are trying to tell me, "Don't worry, we're not going to get any."

**Mr Armstrong:** I don't know much about the Toronto market, I've never been involved with it, but speaking for the London market, and I think I know the London market fairly well, there's no doubt in my mind, if you take off rent controls, first of all, we have probably a very large portion of the apartment buildings here in London controlled by perhaps a dozen major developers. They have an association. I would never suggest that there would be price fixing, but certainly that lends itself to higher rents, in my mind. I know that many of these developers in the past consistently, whenever given an opportunity, didn't follow the rent control legislation, constantly raised their rents as much as the market would bear. Again, I think they would take advantage of the lifting of rent controls.

My other concern is of course there are the unscrupulous individuals who would seize any opportunity to encourage a tenant to move from a building, knowing that in due course they would be able to get substantially

more for that unit. It's just too great a temptation for a few.

**Mr Marchese:** You've read the proposal, have you not?

**Mr Armstrong:** I must admit, I can't say I've —

**Mr Marchese:** More or less.

**Mr Armstrong:** I've glanced over it, yes.

**Mr Marchese:** Is there anything in this tenant protection package that you see supports tenants?

**Mr Armstrong:** The one area that I notice, where you want to eliminate the court and make it one tribunal, rather than the courts, to deal with landlord and tenant, and another whatever you want to call it to deal with rent controls or rent review issues, is to streamline that into one area. Especially if you could make it user-friendly, non-adversarial, I think that would be a good idea.

**Mr Marchese:** Do you have any concerns about how that tribunal might be appointed?

**The Chair:** Mr Hardeman, followed by Mr Spina.

**Mr Hardeman:** Thank you very much, Mr Armstrong. I just wanted to clear up the answer to Mr Marchese. Did you say you hadn't read the document thoroughly?

**Mr Armstrong:** No, I didn't say I hadn't read it. I can't say I'm an expert on it. If you're asking me what's on page 3 on the third line, I don't know.

**Mr Hardeman:** I wanted to deal with the issue of the maximum rents, and recognizing that the maximum rents are based on what the rent was when the program started and allowing the government increases that were allowed each year, that's where the maximum rent is today.

**Mr Armstrong:** That's my understanding, yes.

**Mr Hardeman:** So it was a market rent based on allowable increases, but the market could not stand that amount of increase.

**Mr Armstrong:** My understanding is that, yes, in many cases landlords couldn't rent the units for the maximum allowable amount. That's correct.

**Mr Hardeman:** So we can assume in the London market that in fact they are now getting what the market will bear.

**Mr Armstrong:** That would be hard to say. It depends on the building. Obviously, I would say most units that are charging the — that would be hard to say. I couldn't really say whether they would or they wouldn't. Some would, some wouldn't. It depends on the building.

**Mr Hardeman:** I guess my concern is that if it is what the market will bear, I find it hard to understand why, with the decontrol, we would expect the rents to increase.

**Mr Armstrong:** I think you're going to have a different market. Again, some units are under rent controls. The maximum amount is a low amount, an affordable amount. Obviously, if rent controls come off, those amounts quite possibly might increase. Obviously, landlords are going to take that opportunity to experiment and see what is the maximum — not legal maximum but the maximum — rent they can get for their units. Obviously, you're going to see people experimenting and that's going to start to push the rents up.

**Mr Hardeman:** The other thing you mentioned in answer to Mr Marchese's question, about your concern that the market would be controlled by too few people, are you suggesting that through this process it's going to



be more attractive for large investors to invest in the rental market?

**Mr Armstrong:** I'm suggesting that if rent controls are not on new buildings, that might attract new investors. I'm suggesting that on older buildings, to maintain rent controls would be the right thing to do.

**Mr Joseph Spina (Brampton North):** Mr Armstrong, thank you for your presentation. I just wanted to focus on the particular point that sort of tailed off with Mr Harde-man, and that is the rent controls not being applied to new buildings. You feel this might broaden the market — did I understand that correctly? — to other investors, to perhaps expand the —

**Mr Armstrong:** It gives them an opportunity, yes. Again, it's exactly where I think the government's headed. If there's going to be stimulation in the market, not having rent controls on new buildings will obviously — either people will feel it's an attractive proposition or it's not. By taking them off the older units, I just don't see how that's going to affect that scenario.

**Mr Spina:** Help me bridge this one now, and this is sort of the other side of the coin, I guess. Do you feel that if this was one of the approaches taken, would it help to address the problems that were represented by many of the people representing lower-income groups? Would it help to alleviate the situation with respect to affordable housing?

**Mr Armstrong:** I think, again, keeping rent controls on older buildings will maintain the affordable stock. To introduce new buildings at market value, whatever that market may be, I don't think will have a major impact on the affordable units and the availability of affordable units.

**Mr Spina:** Am I given to understand, then, that there would be sufficient affordable units at this point? I thought that's what you said.

**Mr Armstrong:** I wouldn't say there are sufficient affordable units, because obviously there are a large number of people who would like to get into co-op housing, these sorts of housing units, and there aren't enough to go around. The government's already taken its action in its direction to do with co-op housing. So again, I don't think there's sufficient housing in certain areas.

**The Chair:** Thank you, Mr Armstrong. We appreciate your input here this evening.

1740

#### LIFE\*SPIN

**The Chair:** Our next presenter, representing LIFE\*SPIN, is Andrew Bolter. Good evening, sir.

**Mr Andrew Bolter:** I'm director of community development programs at LIFE\*SPIN. By way of background, LIFE\*SPIN stands for Low-Income Family Empowerment\*Sole-support Parents Information Network. It's a community-based non-profit organization which provides information about access to services and meaningful employment for low-income people. We often assist our clients in their dealings with the government's social service agencies. We aim to gain access to and share and promote the exchange of knowledge of social and community services that are available for individuals

and families. We are committed to creating an environment of trust, respect and self-empowerment within ourselves and our community, and we treat all our clients with respect and dignity and appropriate concern.

LIFE\*SPIN is a front-line organization dealing directly with people who are poor, both the working poor, whose numbers are increasing, and those who find themselves on social assistance. We deal daily with fellow Londoners who are finding it impossible to find appropriate shelter, food, clothing, work, and cannot pay their hydro, gas or, if they have a phone, their phone bills. Our clients are people who are in constant struggle to maintain the basic fundamental necessities of life for themselves, or themselves and their families, and shelter, food and clothing.

We're also actively engaged in supporting and assisting community development projects which will tap into the resources and talents of those in the low-income community who cannot utilize their talents, skills and energy because of a lack of opportunity and access to capital to start community-based businesses. We believe that healthy communities need a truly local economy so that everyone in the community benefits. We believe that the fundamental economic problem with our society is the problem of the concentration of wealth and the siphoning of wealth out of our communities. It's unbelievable to us that this government has portrayed our economic woes as being caused by the poor, who seem to have become the scapegoats in this government's agenda.

I would like to note that many of LIFE\*SPIN's clients are referred directly to us from the constituency offices of our local MPPs — Dianne Cunningham, Mr Wood, who's here today, Bruce Smith, Marion Boyd, who's also here. The LIFE\*SPIN phone number is also provided by the city of London to general welfare applicants during the application process in case they need our help. We see these as an endorsement of our organization by the province and the city of London as regards our credibility, our contribution to our community and the valuable service we provide, which will continue with their support.

From our front-line perspective in London, we see that things are getting worse for the poor in this province. There are now more food banks than McDonald's restaurants; there are more children living in shelters in Toronto than single males. Our phones are ringing off the hook, and people can't afford to pay their rent, their hydro or buy food. Londoners are hurting as a direct result of the deliberate policies, choices and actions of the Ontario government, not only through cuts to welfare, but also other changes that have a huge and disproportionate impact on the poor and the most disadvantaged.

We're seeing changes to workers' compensation, legal aid, health and safety, employment standards, removal of subsidies for public transit, deregulation of environmental standards, the family benefits definition of "disabled" is being rewritten and today we're here dealing with an attempt by a government to take away the rights of tenants with its ludicrously titled tenant protection legislation, which would appear to have been written by and for the landlords of this province.

The proposed changes to the Landlord and Tenant Act and rent review and the Rental Housing Protection Act,



along with other changes to programs and government services, are going to compound the detrimental impact of recent government actions on the poor. After reviewing the proposed changes to the landlord-tenant legislation, we are at a loss to understand how anyone could imagine that anyone other than the landlord and large property management companies is going to benefit from them.

I'd like to critique some aspects of the proposed legislation; first of all, the availability of housing for low-income families. We have to distinguish, I think, between what I would call mainstream apartments or rental units and affordable rental units for those who are in the low-income bracket.

The present rent control legislation exempts new rental housing from rent control legislation for five years, yet there has been no evidence that this has provided developers with an incentive to build rental housing, especially low-income housing. The government's own statistics support this. If the private sector is not going to provide low-income housing, who is? The government has already decided to abandon its responsibility to provide affordable public housing. There seems to be a doctrine and naïve belief that somehow the free market will provide the most efficient and so the best solution.

The plan to scrap the Rental Housing Protection Act will further erode the availability of affordable rental stock. A recent report to the community service committee of London city council, prepared by Jennifer Kirkham of the department of community services, finds that 25,000 of the 138,000 households in London were below the poverty line; 7,890 or 31% of one-tenant families in London pay gross rent equal to or greater than 30% of income, which is the accepted upper limit of affordability. Evictions rose from 578 in 1994 to 708 in 1995, a 22% increase, and we believe this number is going to drastically increase as the cuts to social assistance bite this winter.

London and Middlesex Housing Authority had a waiting list in 1994 of 1,134. Community Homes, which is a housing co-op agency, had a waiting list of 1,300 in 1994. We have six emergency shelters in London, and there's been an increase of 31% in the average use per month. So people are obviously looking for affordable housing.

We believe the need for low-income housing will increase as the present economic policies create more and more unemployment and underemployment. Most new jobs are low-paying, casual and contract jobs. What is the true cost of a homeless human being freezing in the street? There were three such cases in Toronto last winter, and given the increasing inability by the poor to pay their hydro service and the resulting hydro cutoffs, we are likely to see people freezing in their homes. The changes proposed today will only serve to ensure that such deaths occur in the streets. People going hungry and without shelter and dying in the streets are not signs of a progressive or caring society.

This government is abandoning rent control just as it has abandoned public housing. Why? Surely any government has the responsibility to make sure that everyone in its jurisdiction has adequate shelter. I remind the commit-

tee that the right to shelter is a fundamental human right. The reason we need rent controls and social housing is that the market does not, cannot and will not serve the needs of the poor who face systemic discrimination. Adequate housing is not optional. We all need it. It is fundamental to individuals' health, psychological and otherwise. Our society believes in controlling the cost of many commodities that are not necessities — cable TV, telephone rates etc. Why not housing, which is a necessity?

I quote Andrea Horwath's recent article in the *Hamilton Spectator*, which I think everyone should read, because it goes to the heart of the matter. She writes: "Many studies of health and wellbeing indicate clearly that a decent home is one of the most fundamental building blocks on which we construct the other complex parts of our lives. Its quality and stability are determinants of physical, emotional and mental health and these are the key to the healthy development of our children."

I ask the government committee members to show us their evidence and explain exactly how this new legislation is going to result in adequate housing for the poor. Could you explain to me and to us where the working poor, seniors on fixed incomes and those on social assistance are going to live? What percentage of their incomes are you expecting them to spend on rent? Where are the studies that any responsible government would obtain before embarking on such a radical path of social experimentation which threatens such a fundamental right?

This government should guarantee that the shelter portion of social assistance will be deemed to be the average cost of rental accommodation for the recipient in their geographic location, depending on their and their dependants' reasonable accommodation needs. For instance, a one-bedroom apartment would be reasonable for a single person or a couple, a two-bedroom apartment for a single mother or a couple with a child. This would be much like linking support payment increases in child support matters to the consumer price index and would protect the poor in this province. This seems to us to be common sense. If you believe in the efficiency of markets, then this will be the most cost-effective and humane way of ensuring that the poor are housed.

**1750**

I'd like to speak briefly about the harassment issue. You propose to set up a harassment unit. Traditionally, the poor have been ghettoized and bad landlords have harassed and victimized their low-income tenants because there is nowhere else for them to go. The expense of moving is a disincentive for the poor to move. The poor are made up of the most vulnerable members of our community. The proposed legislation will encourage some landlords to harass tenants into moving out so that they can jack up the rent on the unit. We know that despite assurances of a mechanism to deal with harassment by landlords, harassment will take place and people will be forced to leave their units.

Proposed harassment units would have to exist in every community and be prepared to investigate every case of harassment promptly and have the power and the mechanism to obtain restraining orders against landlords. We



do not believe this government is prepared to provide the necessary resources for an effective anti-harassment unit to be set up. We must remember that many people who are disfranchised and marginalized by poverty simply do not complain and are easily victimized.

Anyway, harassment is not often as overt as the cute little example provided on page 7 of the New Directions document. In that example, the landlord turns the heat down and makes a big noise. It's much more likely that Janet, the character in the example, will be harassed in more subtle and insidious ways. There could be verbal harassment of herself and her children. The landlord could make unwanted sexual overtures to her. Her family could be threatened. Her car, if she could afford one, could be damaged. He could make malicious and unfounded reports on the 1-800 snitch line to the welfare department so that she is repeatedly investigated by welfare. He could make similar reports to children's aid about her children. He could induce other tenants to make life miserable for her. This is more typical of the type of harassment that can be expected and that we see from landlords.

How could Janet ever prove this was taking place? It would simply be her word against the landlord's. As a lawyer, I know that there are huge evidentiary problems in such cases.

Now the issue of subletting. The discussion document proposes to take away the right of a tenant to sublet or assign their lease. Subletting should continue to be a right where a tenant needs to leave prior to the end of the lease agreement. If this is not the case, then a tenant is simply trapped for economic reasons to the full term of the lease. If you cannot sublet or assign your lease, then how can a tenant ever get out of a lease? The present law states that you can assign your lease or sublet your unit with permission of the landlord, and that permission cannot be unreasonably denied or withheld. This right must continue. In October 1996, following the drastic cuts to shelter allowances, social assistance recipients were instructed by this government to find alternative living arrangements that they could afford on their reduced budgets. This proposed legislation entraps them into breaking new laws in order to survive if they cannot afford their rents.

We would also like to point out that this proposed change is just plain stupid in terms of our local economy, which our local MPP should have pointed out to you. Our local economy is based largely on post-secondary education and research. This means a large student population resides here for eight months of the year and then leaves to return to find temporary employment in order to fund their continued education. The proposed legislation places a ridiculous and undue burden on students already struggling with the cutbacks to education. It places an undue burden on our local economy, which further reduces local employment opportunities.

It's time that this government considers the interconnections between various legislative changes it is making and time it considers the effects such changes have on everyone in our communities.

Now the right to withhold rent. The right of a tenant to withhold rent in a dispute with a landlord, as is the case

with the current law of this province, must be maintained. The present law requires that the rent be paid into court pending the final decision. This right to withhold rent is often the only bargaining chip a tenant has. This right has been exercised in London in cases where there are substantial risks for the families residing in substandard conditions. Should a single child in our community die because of such things as electrocution from exposure to bare wires, we will hold the province responsible. To remove the only legal recourse a tenant has to ensure the safety of their family is not only irresponsible, it's deplorable.

To conclude, we found that the government discussion document is so vague that it's not really easy to respond in detail. But we have learned that this government tends to act before it thinks about the consequences, especially when it comes to hurting those who are struggling to survive in our society. I hope that you start to think about the consequences of what you are doing. I can tell you that you are doing great damage to the fabric of our society and our community. Please start to think.

Instead of gutting the Landlord and Tenant Act, rent review legislation, and scrapping the Rental Housing Protection Act, this government should be actively engaged in social policy and planning around making sure that all Ontarians have adequate and decent and affordable places to call home.

**The Chair:** Thank you, Mr Bolter. We have one minute per caucus for questions, beginning with Mrs Boyd.

**Mrs Boyd:** Thank you very much for your presentation. It was very helpful to have a sense of what it's like to work in an agency and really be working with the people. I think we're very struck by the fact that that's what seems to be happening here. Those who have contact with real people who require affordable housing take a very different position than those who make their living out of charging rents to those same people. We're seeing that split and it's growing as more and more people come and speak to this committee, and it's what's been happening with many of the changes this government is having because it really is widening that gap.

I think you were here for a previous presentation where we were hearing how marvellous it is in London that our market rents are so much lower than the maximum rents, but how maximum rents should be kept. And the government keeps making the point, why do we need rent control if market rents are so much below the maximum rents? And there was a hint in there, wasn't there, that when things get better, the landlords are hoping, first of all, to go to the maximum rent and then just keep on raising those rents?

**The Chair:** Thank you, Mrs Boyd.

**Mr Hardeman:** Thank you very much for your presentation. I just wanted to quickly go to the issue of non-profit housing and how it relates to affordable housing. In your opinion, is there any reason that makes the government-sponsored housing actually cheaper accommodations? Is it better run? Is it cheaper built? What's unique about that that makes it more affordable than the house in the private market?



**Mr Bolter:** I just think it's a question of availability. I think the obligation of the government to provide shelter outweighs issues of market and whether it's cheaper or not. I think from our perspective there just is not the available accommodation to house the least advantaged in society. Therefore, from our perspective the government is under a duty to provide public housing because there's no other availability.

**Mr Hardeman:** Spending the same amount of government money, could it not be spent and provide more housing for more people through the private sector? The landlords have been telling us on a regular basis that in fact they build and operate the unit for less money.

**The Chair:** Thank you, Mr Hardeman. Mr Sergio.

**Mr Sergio:** One minute is not very much even for a short question. We have heard this morning that London enjoys a free market today; rent control is not doing anything. From your presentation I see that London has some 25,000 people living below the poverty line, yet London has a 4% vacancy rate. Does it mean then that 25,000 people or so can't afford the units that are within the 4% vacancy rate?

**Mr Bolter:** That would be my interpretation of those numbers. If they could afford them, I suspect they would be taking those units.

**Mr Sergio:** Which means there are no affordable units for 25,000 families or people within the London area?

**Mr Bolter:** Exactly.

**The Chair:** Thank you, Mr Bolter. We do appreciate your input this evening.

1800

IRENE MATHYSSEN  
ALEX MITCHELL

**The Chair:** Our next presenters are Irene Mathysen and Alex Mitchell. Good evening. Welcome to our committee. The floor is yours.

**Mrs Irene Mathysen:** On behalf of Mr Mitchell and myself, I would like to thank the committee for the time that has been set aside for our presentation. It's essential that this committee hear from members of our communities and understand thoroughly the impact of some of the proposals for change to rent control put forward by the discussion paper before any such changes occur.

The fundamental right to safe, affordable housing is not a luxury in any society, be it affluent like Ontario's or economically disadvantaged. The security of a proper home enhances the quality of all our lives because it ensures the wellbeing of the elderly, low-income families, single-parent families, the mentally and physically handicapped and, perhaps more significantly, the children who will determine the social and economic future of our province. A safe and secure home reduces family stress, promotes good mental and physical health and enhances our communities. The assurance of a safe, secure home is essential if we are to have the kinds of neighbourhoods that permit a positive quality of life for all the members of the community.

Since our time is limited, I can only outline some of my concerns regarding New Directions for Discussion. I'm sure that this committee has already heard at length from others who deal directly with a wide range of

landlord-tenant problems. I've worked in the London-Middlesex community over the last few years and I'm familiar with some of those issues faced by landlords and tenants. I'd like to relate those real situations to the discussion paper.

I'll begin by saying very directly that while there is always room for improvements to any existing statute, many of the proposals in the current government discussion paper are not going to benefit the people of this province who are looking for safe, affordable housing for themselves and their families.

My concerns with the government document begin with page 1. The stated purpose of the proposed changes are to "protect tenants from unfair or double-digit rent increases, evictions and harassment and to provide security of tenure."

The existing rent control legislation allows rent increases of 2.8% plus a possible additional 3% above the guideline for capital expenditures and extraordinary operating costs. This total of 5.8% is certainly not double-digit and it's less than the 6.8% proposed in the discussion paper.

This first stated objective is misleading and inaccurate. There seems to be some confusion on the part of the minister with the contents of the 1992 Rent Control Act and the Liberals' Residential Rent Regulation Act of 1986. On page 2 of the discussion paper it states, "Capital expenditures need to be capped to avoid the problem of the 1986-1990 system, when tenants experienced rent increases of 30%, 40%, or even 50%."

I agree absolutely. Some of the most serious issues for tenants have been landlord applications for rent increases that in no way enhanced anything except the landlord's personal profits.

A case in point is a small community in rural Middlesex comprised essentially of seniors on fixed incomes. These seniors were informed in 1987 that there would be a substantial increase of 12.32% in rents for 1987-88. Again, in 1988-89, the landlord was awarded 14.9%. The tenants appealed this increase, but despite their appeal an increase of 13.9% was awarded to this landlord. The landlord then appealed the 1% reduction and asked for an additional 13% for 1988-89. Tenants were very concerned because this meant they would be compelled to abandon their homes due to this exorbitant increase in rent. The landlord applied for further increases in 1990-91, and the basis for all of the landlord's requested increases was capital expenditures. Interestingly enough, the capital expenditures had more to do with expensive and nifty toys for the landlord than maintenance or upgrades to the facilities. The last application for a substantive increase in rents in 1990-91 was based on costs associated with recreational facilities that the landlord had terminated in 1990, and the repair and relocation of tennis courts and shuffleboard courts that did not and do not exist.

Tenants do indeed need protection from this kind of landlord and the double-digit increases of the late 1980s, and that's precisely what Bill 4, the Residential Rent Regulation Amendment Act, did and the 1992 Rent Control Act continues to do. These tenants are protected by the 5.8% cap and that protection must be maintained.



For the sake of time, I'm going to move to the top of page 3.

The last point on page 2 of the discussion paper is also problematic. The closure of rent registries will make it impossible for tenants to determine the fair rent for a unit. New tenants moving into rental accommodation are not protected from excessive rent increases. They will be obliged to "negotiate" their rent without the benefit of any regulatory restrictions. Some 31% of Ontario's tenants already pay more than 30% of their income in rent. Add to this the impact of social assistance cuts to the poorest Ontarians and the cancellation of more than 380 co-op and non-profit housing projects for low-income families, seniors and the mentally and physically challenged in July 1995, and it's clear that renters in this province are faced with one obstacle after another when looking for a secure and affordable home.

I would like to tell the members of the committee how some low-income tenants in the city of London manage. At the beginning of my presentation I indicated the importance of safe, affordable housing. Its importance cannot be stated too strongly. Every effort must be made to increase the supply of safe, affordable accommodation.

A four-building community of three-storey walkups built in the early 1960s was purchased some years later as an investment by a landlord who seemed intent on maximizing the income from these properties. In order to do this, he stopped all maintenance. Over a period of time the apartments began to deteriorate to the point where windows and ceilings leaked, there were constant mould and mildew problems, painting was pointless, there were continual sewage outbreaks in the basement due to the lack of primary maintenance, burned-out hall safety lamps were never replaced, and garbage chutes were abandoned and left as a safety hazard for young children. The landlord would barge into an apartment whenever he wished, creating a very uncomfortable environment for his tenants, and particularly the tenants who were single mothers.

Objections to these circumstances were passed off by the landlord as the fault of the tenants. He blamed them for the condition of the buildings. Many of these tenants felt trapped because they could not afford to move. They finally and successfully banded together as a committee to create their own co-op housing. I was present at the opening of that co-op in 1991. This community of people had created a healthy, positive and safe environment for their families. One tenant at the opening ceremony told those gathered how proud she was to be able to provide a proper home for her 8-year-old son. He in turn explained that he was no longer ashamed to bring friends home to his house and how good that made him feel about himself and his family. Five years later, this co-op is an attractive and thriving part of the neighbourhood.

Predatory landlords are easily able to intimidate tenants when there is a shortage of affordable housing, and there is such a shortage. The actions of the provincial government, and many of the proposals in this discussion paper, have recreated the tenant trap. The Ministry of Housing's own study, the Lampert report, has concluded that the proposed changes to rent control will not increase the supply of affordable housing.

I would like to draw the attention of the committee members to an article attached to this brief from the London Free Press of August 17, 1996. It's entitled "Social Assistance Cutbacks Make Housing Search Tough." This article explains the work of the London Housing Registry and makes the point that London, unlike the tight markets of Toronto, Hamilton or Windsor, has a good supply of rental units. You've heard that today. Unfortunately, these units tend to be in the upper price range and are therefore inaccessible to low-income families and individuals with only one income.

The article goes on to point out that the registry expects to see "a steady increase in clients who are looking for housing. From September 1995 to this month," August 1996, "there were 6,000 calls to the registry, up significantly from other years." In addition, "Louise Stevens, general manager of the London and Middlesex Housing Authority, says affordability is the main reason tenants are applying to the authority for rent-geared-to-income units."

#### 1810

The groups not mentioned in the article are seniors and the mentally and physically challenged. I'm sure you've already heard from representatives of those groups in regard to the difficulties in finding accommodation. The proposed changes to the Ontario statutes related to tenants and rent control will further exacerbate this situation because rents will be allowed to rise while new affordable units will not be added to the housing supply. Does anyone imagine that landlords will be negotiating lower rents with tenants moving into vacated units?

There are of course resources for tenants like the London Housing Registry. Unfortunately, the registry lost all provincial funding last month. Four of its five staff members have lost their jobs and the agency is hoping to survive with one staff person and some support from the city of London. It's unclear how the needs of thousands of applicants will be met. I would like to ask this government how it proposes to meet the needs of those people.

One final area that requires your attention relates to leased-lot communities. I'd like to turn the floor over to Mr Mitchell. He's got extensive experience in that regard.

**Mr Alex Mitchell:** Good evening, ladies and gentlemen. My name is Alex Mitchell and I'm a past president of a tenants' association in a mobile home park, an owned-home, leased-lot community.

I am very concerned when I hear the government is considering repealing the Rental Housing Protection Act. If this were to happen, there would be virtually no protection for the tenants of owned-home, leased-lot communities. These tenants, mainly senior citizens, have purchased their homes in good faith from the landlord, who is the land owner. They run the risk of being turfed out on to the street and losing the equity they have in their homes if a landlord decides to put to the land on which the home is situated to another use. Consider the difficulty and the horrific expense of moving one of these modular homes. The term "mobile" is not accurate. Many of these homes are not mobile at all.

The RHPA should not be repealed. Careful consideration must be given to the consequences of doing so.



Page 13 of the discussion paper outlines the responsibilities of the tenants and the landlords in mobile home parks and leased-lot communities. Bill 21, the Land Lease Statute Law Amendment Act, 1994, adequately covers the responsibilities outlined on page 13. What is lacking is enforcement.

In one park with which I am familiar, the tenants maintain their leased lots as well as some part of the landlord's property. The tenants maintained and upgraded their units, thereby living up to their responsibilities. At times the landlord did not. He unfairly withheld permission for a building permit if one was required for a unit upgrade, and when permission for upgrade was given, the landlord charged \$70 to tenants for a permit for which the municipality charged \$35. And despite these disincentives, the tenants continue to live up to their responsibilities as tenants.

Further, the discussion paper indicates that tenants will have the right to display For Sale signs on their homes. The tenants already have the right to sell or lease their homes under Bill 21. Unfortunately, in some leased-lot communities, the landlord places unreasonable requirements on tenants who sell privately or through a real estate agent before he will give consent for the sale or lease of a property. He has, for example, insisted the tenant sign a tree agreement for the removal of trees from the lot, or asked for legal fees well in excess of the nominal administrative fee set out in Bill 21. The question regarding how a landlord can incur legal fees for the sale of a mobile home that the tenant is selling has yet to be answered by this landlord.

Should the tenant sign an agreement with the landlord to sell the mobile home, the landlord charges \$60 for a PPSA search if the home is registered in one name and \$120 if it is registered in two names. This search is pointless since it is the buyer who needs to establish that there are no debts against the unit. These charges by the landlord are highly questionable, particularly when one considers that the cost of such a search is \$7 at the London courthouse.

The same landlord has also insisted that an inspection of sewage connections and water supply be carried out by a plumber named by the landlord before the landlord will provide consent for the sale or lease to proceed. The tenant is then charged \$110, payable to the landlord, for the cleanout of the septic tank. The company that does these cleanouts charges \$80 for this service.

Recently a tenant found that a sewage connection plate was galvanized downpipe. She contacted the conservation authority which referred her to the municipal building inspector. This tenant was told that she must obtain a permit through the landlord and pay a \$30 fee before the building inspector could look at the pipe. The tenant knew she would not be able to get the cooperation of the landlord and simply replaced the pipe with the proper pipe as required by the building regulations. This is not the first time that tenants have found an improper sewage pipe that had to be replaced at the expense of the tenants. Landlords must indeed take responsibility for the maintenance of the infrastructure.

As I have previously indicated, existing law, including Bill 21, already sets out landlord and tenant responsibil-

ities. There simply needs to be better enforcement and a quicker response by the Ministry of Housing to tenant complaints.

I have some concerns with regard to the suggestion that the landlord maintain a publicly accessible bulletin board for tenants selling their property. I am concerned about the location of these boards and who controls them. As I've already demonstrated in my presentation, not all landlords act in good faith when it comes to the sale of a home.

In regard to the tenants' right to sublet, it is not possible under the terms of the lease currently used in some parks. These leases normally expire within one or two months from the date of the lease and the tenant then becomes a statutory tenant. Landlords should not be permitted to issue a lease of a very few months to someone who has just purchased a modular home at a cost well in excess of \$50,000. Leases must have a longer term, with more protection for the tenant.

I would also like to draw your attention to the issue of property taxes. In a situation with which I am very familiar, the municipality bills the landlord, who in turn collects taxes from the tenants for the lot and the housing unit. The landlord is able to hold this money and collect interest on this money until he remits the taxes to the municipality. Land taxes are supposed to be included in the rent. In this case they are not. This is a bad situation which is highly suspect.

Recently a 91-year-old widow signed an agreement for the sale of her mobile home with the landlord. The terms of the sale are attached to this brief. Some of these terms are as follows: a commission of 8%, plus GST, of the sale price; plus 2% plus GST on the sale price for the advertising and paperwork preparation. In addition, the vendor agrees to have the maple and evergreen trees and stumps removed at her own expense before closing. This lady has lived on the same site since 1976.

Finally, I'd like to discuss problems created when the landlord is given the right of first refusal. The right of first refusal has been misused by the landlord to acquire a home at bargain basement prices. He then makes minimal renovations and increases his selling price by as much as 50%, and sometimes more.

I therefore respectfully suggest that the regulations be amended to give the landlord 72 hours after he is advised the unit is for sale to purchase that unit, and he should not be permitted to intervene after a firm offer has been received from a prospective buyer and other people have done the legwork needed to sell the unit. In Florida and Arizona, park owners have no input and cannot interfere in the sale of mobile homes. They are restricted by the state law.

My last word on this subject: Don't abandon current tenant protection legislation, including Bill 21, just to satisfy some landlords. Enforce rent control and Bill 21 with a timely response from the Ministry of Housing and action on legitimate tenant complaints.

Thank you, ladies and gentlemen.

**The Chair:** Thank you. There's only about two minutes left, no time to do any good questioning. Do you have a final statement that either one of you would like to make?



**Mr Mitchell:** I think timely enforcement by the ministry when it is reported that there are infractions. I can see no reason why the lady I mentioned had to pay \$30 for a permit for the local inspector to come and inspect a drain pipe that's definitely in contravention of any sanitary regulation.

**Mrs Mathysen:** I'd like a final word. This government has an obligation to the vulnerable people of this province. Don't forget them.

**The Chair:** Thank you very much. We appreciate your input here this evening.

1820

### NORQUAY HOMES LTD

**The Chair:** Our next presenter is Michael Howe from Norquay Homes. Good evening, sir.

**Mr Michael Howe:** Thank you. My name is Michael Howe. I'm with Norquay Homes Ltd. Norquay commenced building small single-family homes in 1972. Over the years the company has expanded into land development and general contracting, commercial, office and industrial rentals, as well as residential rentals. We currently own and manage over 1,100 residential rentals in London, Woodstock, Goderich and Chatham.

Let me start by saying that I support the positions taken by Fair Rental Policy Organization of Ontario, in particular:

Rent control and the rules under which we operate our buildings are being modified on a five-year cycle. This legislative instability makes it difficult to obtain the financing over 30 years that is required to construct new buildings or even to finance existing buildings.

The private rental sector is being used to implement the social policy of providing affordable housing for the minority of needy tenants.

By the removal of legal maximum rent, this legislation is taking away earned capital expenditures and rent increases forgone as a result of depressed market conditions and dooming the rental housing sector of most of the province outside of Metro Toronto to a future of insufficient cash flow to properly maintain their buildings. This policy alone will result in the bankruptcy of many existing provincial landlords outside of Metro who are at present barely able to continue operating as a result of high vacancies and reduced rents. Freezing rents at present levels at the bottom of a financial cycle will be disastrous.

The legislation should be amended to allow landlords and tenants to negotiate rent increases in exchange for specific improvements that are above and beyond the property standard requirements and for which the tenant is prepared to pay.

The legislation must be amended to allow a notice period for landlords to repair deficiencies before it becomes an offence.

The legislation should provide for the ongoing operation of the provincial courts as the arbiter of disputes and non-payment of rent issues. With a little streamlining, the present system can provide timely resolution of these issues without creating a new and parallel bureaucracy through the Ministry of Housing.

Permanent rent abatements and rent reductions should be discontinued if, and only when, the offending deficiencies have been corrected. Failure to remove this provision will make it increasingly difficult to finance any residential building, whether it be new or existing.

I fully support the provisions which would allow a landlord to control subletting. This provision will prevent the situation arising where rent-controlled suites are sold from one tenant to another.

I don't propose to go into the merits of these points, as I'm sure you've heard in detail from others before me about these issues. Rather I would like to discuss the impact that this legislation will have on my company if left in its present format.

First of all, Toronto is different from the rest of the province. As I said earlier, we have rental units in London, Chatham, Goderich and Woodstock. These municipalities have not shared in the recovery and growth experienced in areas of Metro. Vacancy rates are high, rents are depressed and incentives of one to two months' free rent to attract new tenants or retain existing tenants is the norm.

For example, we have a 42-suite building in Goderich, constructed by us in 1987, at which time the rents were \$440 for one-bedroom suites and \$495 for two-bedroom suites. The current legal maximum rent for this building is \$664 for one-bedroom suites and \$725 for two-bedroom suites.

As a result of an almost continual 15% vacancy rate, we are charging only \$475 for a one-bedroom and \$542 for a two-bedroom. However, we are forced to offer the first month free to attract new tenants. As you can see, when you deduct the incentive, after 10 years we are charging virtually the same rent as we did when the building was new.

We have continued to maintain this building in a first-class manner, as we attempt to do with all of our properties. Notwithstanding that, it has consistently generated insufficient cash flow to cover the cost of doing so along with paying the mortgage and taxes. We believe that the employment situation and the economy in general in Huron county and Goderich will improve over time and we will perhaps be able to charge some portion of the forgone rental increases, as well as recoup some of our losses, if we look after the building.

The proposed legislation as presently contemplated would freeze this building in time, denying us the necessary cash flow to make major repairs and replacements when the various components of the building reach the end of their useful life expectancy or to recover the rent increases we have been unable to take as a result of the economic climate.

Our other buildings throughout southwestern Ontario have experienced similar economic conditions. At this time, in our entire portfolio of over 1,100 suites we have none that are rented at the legal maximum. In fact we have some of our higher-end luxury units that are today renting for less than they did when they were constructed in 1989.

The inability to increase rents in accordance with the current legislation has taken place against the backdrop of ever-increasing municipal and education taxes, the



imposition of non-deductible GST, as well as increased costs of maintenance and replacement as the buildings age, leading us to an inevitable cash crunch if we have our ability to recover forgone rent increases taken away.

If the goal of this legislation is to get people like me back constructing residential rental suites, it will fail miserably. Recently we considered constructing new residential rental buildings in the Toronto area, where demand is high and vacancies are low. In the absence of a resolution of the issues raised here today, as well as assessment inequities, we would not proceed under any circumstances. Such a venture would be far too risky and in all likelihood impossible to finance.

Our industry shares the same concerns and beliefs that members of all three political parties share: that every person in Ontario is entitled to decent, well-maintained housing and that those who can't afford that housing should be provided with the assistance required to maintain their housing needs without exceeding a reasonable percentage of their personal resources.

Our company provides rent-g geared-to-income units to the various local housing authorities in each of the municipalities in which we have buildings located. I believe that these types of arrangements should be expanded or, in the alternative, a shelter allowance program should be developed which would allow people to remain in their present accommodation without having the stigma of being forced to move to a subsidized housing project in the unlikely event that such a unit were even to become available, especially where the assistance is only required for a short term.

There are cost-effective ways to achieve a truly fair social housing policy at a fraction of the cost spent on direct ownership and without the burden being borne by the private residential rental sector through rent controls.

I leave you with the following thought. If you truly want to create a well-maintained, adequately balanced supply of housing in all areas of this province, consider the following:

If we are to continue down the path of decontrol/recontrol, you must maintain the concept of maximum legal rent, a concept that was included in both the NDP and Liberal versions of rent control.

Allow landlords and tenants to negotiate improvements to suit each individual tenant's wishes.

Allow landlords a reasonable time under the circumstances to remedy a deficiency before being charged with an offence.

Leave the resolution of disputes and non-payment of rent with the courts, but streamline the process.

Finally, develop a cost-effective shelter allowance program that truly meets the needs of those in our society who require short-term and long-term housing assistance.

**The Vice-Chair (Mr Bart Maves):** Thank you very much. We have about four minutes per caucus for questions, starting with the government caucus.

**Mr Stewart:** Thank you, sir, for your presentation. I want to go back to page 2, where you're suggesting that the ongoing operation with provincial courts etc should continue the way it is "with a little bit of streamlining." Do you want to expand a little bit on that?

**Mr Howe:** I think one of the areas should be that the adjudicators — they're not presently allowed to make binding decisions and they should be able to make judgements. Secondly, I think that in the instance where the issue is related to alleged non-repair, maintenance issues, the rent should be paid into court to ensure that it's not simply an attempt to avoid paying the rent.

**Mr Stewart:** Also on your page 5, you're suggesting, "Allow landlords and tenants to negotiate improvements" to the suites etc. We're hearing over the last couple of weeks that that won't happen. Do you want to comment on that?

**Mr Howe:** Who's saying it won't happen, or why won't it happen?

**Mr Stewart:** Those who say that many people do not have the ability to negotiate rents and/or upgrades, whatever it might be. They're saying that's an impossibility, that no negotiations will happen.

**Mr Howe:** For example, you may have a unit that's 10 years old and has a 10-year-old carpet in it. It's quite adequate to meet the property standards; however, the colour may be a little bit dated. The tenant may well be prepared, in exchange for a \$15 rent increase, to get new carpet throughout the suite. That's the type of thing that a tenant is certainly in a position to negotiate.

**1830**

**Mr Stewart:** Do you think there will some negotiations done on the actual rent itself? Again, we're hearing that people do not have the ability in certain areas to do that.

**Mr Howe:** I can speak for this area and all of the areas where we have buildings. If a tenant has a problem and they come to talk to us, we're going to talk to them because we can't afford another vacancy.

**Mr Stewart:** I think I have to agree with you on that. The final one is, we have heard again over the last couple of weeks that the minute we make a change, basically everybody's going to be harassed by the landlord. Do you wish to comment on that?

**Mr Howe:** I don't believe that's the case. With the vacancy rate as high as it is in the various municipalities we're involved in in Ontario, that's not going to happen. It's not a situation. We need the tenants, we need the customers. They're our customers.

**Mr Stewart:** A comment was made the other day that if you walk in to do business with Simpson-Sears, they don't spit on your boots so you'll walk out. The landlord and tenant thing — I think this is what we're trying to do, to make a level playing field that will be good for both parties.

**Mr Curling:** Thank you, Mr Howe, for your presentation. Do you believe the government should cancel rent control?

**Mr Howe:** My personal belief is that if I knew that it wouldn't be reinstated by the next government, I would say yes to the answer.

**Mr Curling:** Okay. You said you constructed a building in Goderich in 1987 and the rents were \$440 per month for one bedroom. Rent control was in place in 1987, at the time.

**Mr Howe:** Yes, sir, it was.



**Mr Curling:** In 1996 now, you said that same building has a legal maximum rent of \$644. That's about a 50% increase under rent control.

**Mr Howe:** Yes, sir, that's correct. That's based on all of the allowable rent increases; the statutory increases, no special increases.

**Mr Curling:** So rent control helped in this situation then.

**Mr Howe:** Not collecting the rent.

**Mr Curling:** No, I'm saying that it allowed the legal maximum rent to be moved up almost 50%. You couldn't get it, really, but it still allowed you. It told you: "You want a free market? Here's a free market." You're saying no. I'm saying it gave you even better than a free market. It tells you that you can go up even beyond what the market will bear.

**Mr Howe:** No. I can only collect what the market will bear. What you're proposing to do under this legislation, or what's being proposed here, is to take that away now.

**Mr Curling:** But you can't have your cake and eat it, you know.

**Mr Howe:** Oh, I think you can.

**Mr Marchese:** Oh, yes, sir.

**Mr Howe:** I think what you're trying to do is create a very unfair situation where landlords in Toronto, because of a tight market and a better financial situation, are able to take those rent increases. They are at their legal maximum. It's nothing if you take it away from them today, but it is something for us. All right? You're taking something away from us that you are not taking away from them.

**Mr Curling:** All right, let's say you earned that; you earned the legal maximum rent. The tenant earned the maintenance too, which totalled about \$10 billion of maintenance that was never done. I'm talking about overall. Are the landlords prepared to give that back now then, since the tenants have earned that through the legal guideline?

**Mr Howe:** I can't speak to that, Mr Curling, because I do my maintenance, whether we have the money or not.

**Mr Curling:** I know. I think you're a good landlord. I have no doubt about that. I was just speaking in a corporate way, that the \$10-billion maintenance that's not been done is there. They said, "We didn't do that because lots of things happened." I was going to ask you too — help me out in this — I don't think wages actually increased 50% since 1987 to now. Rents are given the provision to increase 50%, but wages didn't follow that. And your argument is solid, the affordability. The people at the bottom end can't afford your apartment at what it was guaranteed for or what it can be legally rented for. So affordability is the problem, not rent control really.

**Mr Howe:** Let me deal with your first question. I would have to say that as far as the outstanding \$10 billion of repairs are concerned, perhaps we should also offset the rent increases that we're not allowed because of the cap on capital construction, or the cap that was put on my \$200,000 worth of renovations when your government came into effect and set aside rent increase orders that I had.

Secondly, as far as rental increases being 50% and wages not being able to keep up are concerned, what

you're proposing here is now to limit my increase to today's level, but wages may well make a major jump in the next couple of years. What happens to me then?

**The Chair:** Thank you, Mr Curling. Mr Marchese.

**Mr Marchese:** Mr Howe, you got a clap from some of the people in the room with your last point on page 6, which was to "develop a cost-effective shelter allowance program that truly meets the needs of those in our society who require short-term and long-term housing assistance." Can you describe briefly what cost-effective might mean?

**Mr Howe:** I think the general rule of thumb — it's been quoted here by other people and it's certainly the same one that's used for mortgage payments — about 30% of income. The studies that Clayton did show that the cost of doing that in Ontario would average \$154 per needy tenant, leaving them in their existing location.

**Mr Marchese:** Thirty per cent seems reasonable.

**Mr Howe:** Yes.

**Mr Marchese:** Would you agree that it's something the government perhaps should announce or speak about before it does any decontrolling of rents, or do you think that should come after the fact? And would that worry you and/or some of the people who have been advocating for that kind of an allowance that certainly would meet their needs? They're not sure that might happen. Would you agree that the government might put something out that speaks to this in advance of this measure?

**Mr Howe:** I think it would be nice to know that the issue is going to be dealt with and that it's being looked at. I don't have a problem with that concept at all.

**Mrs Boyd:** May I ask a question?

**Mr Marchese:** Sure.

**Mrs Boyd:** I'm very curious as to whether you lost tenants as a result of the decrease in support for social assistance recipients over the last year.

**Mr Howe:** We've not noticed a major change or shift as a result of that particular issue.

**Mrs Boyd:** Have you noticed a major increase in the number of tenants unable to pay their rent?

**Mr Howe:** No. In fact our arrears at this point in time are probably at an all-time company low.

**Mr Marchese:** We do believe, on the other hand, that this has affected many landlords and we've heard of many instances in these hearings where that has been the case. It's interesting that it hasn't affected you, but it has affected many landlords that we're aware of. We think that's caused more problems to landlords than anything else in the last year.

**Mr Howe:** I'm not aware of any landlords who have approached me with that issue and I'm very involved in the landlords' association.

**Mr Marchese:** You mentioned that two measures might get you to build, and one of them is to eliminate rent controls. Let me just read it: "In the absence of a resolution of the issues raised here today, as well as the assessment inequities...." You were talking about keeping the maximum legal rents. That's important to you as one issue. The other is the inequity in tax assessment. These two measures alone would allow you to build. Is that more or less what you are saying?



**Mr Howe:** As well as implementation of a housing policy that would include some kind of a shelter allowance, which I believe would go a long way towards getting our industry back to work. I'm not saying that any one of these is cast in stone, but they're issues that have to be dealt with.

**Mr Marchese:** Since 1992, there have been no rent controls on buildings, on new construction. That obviously wasn't sufficient to get people to build.

**Mr Howe:** I don't think that in itself solved the problem, because we finance our buildings over 25 and 35 years. A five-year rule is just not sufficient any more to make that kind of a capital expenditure and that kind of a financial commitment.

**The Chair:** Thank you very much, Mr Howe. We appreciate your input here this evening.

1840

#### LONDON AND DISTRICT LABOUR COUNCIL

**The Chair:** Our next presenter is from the London and District Labour Council, Patty Gunness and Christine Sorko. Good evening. Welcome to our committee.

**Ms Patty Gunness:** Thank you. It's going to be a little bit different than I originally intended. About 10 minutes ago I met Christine, and Christine didn't know until today about these hearings. My intention was to present to you a story, to read to you some excerpts from the story that is in the written submission. What I'm going to do instead is give you a few minutes of my position and the position of the London and District Labour Council, and then instead of reading excerpts from the story, I'll ask you to just take that with you and read it later, and listen to what Christine has to say.

Already for over two weeks now you've been listening to submissions regarding this paper on a point-by-point basis as well as to general residential tenancy issues. The London and District Labour Council believes that these changes are simply one step in the plan of the Harris government to remove all supports from the poor and working people of Ontario. Our presentation, therefore, will deal with the proposed removal of tenants' rights with this view.

This committee and the people of Ontario should not be fooled into seeing all of the Harris cuts to social programs as separate issues. They are not separate issues. The Harris government has a plan. In 1996, the International Year for the Eradication of Poverty, the strategy of the Harris government is to eradicate the poor. However, he only has one term in which to do this and therefore he's acting very quickly to complete his mission before the next election.

The friends of Harris would like to pretend that they are not selfish, cold and heartless, and therefore Harris has created a method of removing the potential for anxiety and sleepless nights for his supporters. This method is to give titles to destructive changes that imply the opposite result to that intended. The tenant protection legislation is another example of this. The plan proposed removes protections tenants may now have but allows landlords to get rich off the misery of their tenants.

If the Harris government has its way, by the next election the rich and upper-middle-class will be richer, the lower-middle-class will work for the rich without adequate protections, and that is because of the reforms to the Labour Relations Act, the Employment Standards Act, the health and safety act and workers' compensation legislation. Those who are presently living on low incomes will be slave labourers due to the welfare cuts and workfare or will have been eradicated because of starvation due to the welfare cuts, exposure to the elements due to removal of tenant protection or untreated disease and illness due to health care reforms.

To show how real the likelihood of this result is, what we have done is to use a favourite method of the Harris government, the sample situation. Although I'm here today in the capacity of executive member of the London and District Labour Council, my employment is as a community legal worker at a legal clinic. As such, I see on a day-to-day basis the victims of the Harris cuts and reforms. The example you will read in the written submission uses real situations faced by real people, and these real people are represented by Tom and Mary.

The lie that the removal of rent controls will encourage the rich to provide more affordable housing is the same as the lie that the tax cut to the rich will encourage job creation. The rich will spend their tax cuts elsewhere. They won't spend it in Ontario. The poor, who have had their welfare benefits cut and whose incomes are now reduced, are the only ones who spend 100% of their income in their communities. This is going to affect the economy but not in a positive way. There will be less money in the local economy because those who spend their money here have no more to spend.

This proposed legislation simply takes more money from the poor so the government can give it to the rich. The madness of the Harris agenda must be stopped before the entire social fabric of this province is destroyed. This committee must do its part to prevent the eradication of the poor, and you must begin by saying no to this proposed legislation.

I heard some of the previous speakers and I heard some discussions on the availability of affordable housing in the London area. I've heard many people talk about it in general terms and say, "Yes, there's plenty of housing but, no, it's not affordable." I have also heard from landlords who say: "If rent control is removed we won't jack up the rents, because we need tenants in there. We're not going to leave our apartments vacant by jacking up the rents so that poor people can't afford them."

Well, this afternoon I decided to look in the London Free Press and just see how many affordable units were available in London. There were so many vacant units that I just didn't have time to go through them all, so what I did was I centred on the unfurnished apartments in duplexes. What I found was that today in London, of the units where the prices were actually listed, which I also noticed with surprise — it's been a long time since I've actually had to look through that section, and so it was very noticeable to me that quite a substantial number are not putting the prices in. I don't know about anybody else, but to me that's always meant they must be really



expensive because they must only be for people who don't care how much they spend or don't need to know how much it costs before they look at it. Why would a landlord deliberately not put the price in the paper if the result is going to be that many, many people are going to call and as soon as they hear how much it is they're just going to say, "No, thanks"?

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Anyway, of the ones where the prices were listed, there were 13 bachelor apartments; not one of them was within the welfare budget. There were 129 one-bedroom apartments; not one of them was within the welfare budget. There were 112 two-bedroom apartments; four were within the budget of a single parent and a child on social assistance. There were 23 three-bedroom units and six four- to five-bedroom units, none within the budget of welfare. This is a total of 283 unfurnished apartments: four within the budget of a welfare recipient. Those are today's hard facts in London and I hope that helps you.

I'd like now to give Christine an opportunity to tell you her story.

**Ms Christine Sorko:** I'd like to begin by passing around some things for the Chair to look at and also the council.

My story began on March 13, 1995, when I rented a seven-bedroom farmhouse that had no heat and an inadequate water source. Over the course of 16 months I exercised every possible avenue that there was for me to access those, and still over 16 months I had no adequate water and no heat for my children. Because I am a part of the poor sector, I was unable to go anywhere else for affordable housing, considering I had just claimed bankruptcy and left my husband of 10 years.

I keep hearing everybody say "the poor sector." I'm only one single woman with two children and I am a part of the poor sector. I would like you to understand that if the changes go through the way they're going through now, where there are less rights for tenants, there's going to be no way for us to ever get ahead in life. There's going to be no way for us to protect ourselves from landlords such as the one I fought for 16 months, and I'm still in appeal presently.

I have no idea where I'm going to go with this. All I know is that I need somebody to listen to me and I've been trying to get somebody to listen to me for a long, long time. To understand all the compliance orders and to understand going to your municipal offices and to understand at Christmastime going to your municipal offices and telling your council representative that you're going to have to send your children away for Christmas somewhere they don't want to go because your pipes have frozen and you've got two feet of water across the main floor of your house and nobody will do anything to help you — that's where I'm coming from and that's where a lot of people before me and after me are going to be coming from. People freezing in the street is nothing considering freezing in your home, a home that you pay rent for, a home that you're fixing up.

I was hearing about long-term lease agreements. Long-term lease agreements mean nothing. I had a five-year lease at this place, a five-year lease at \$400, which was affordable to me, and it meant nothing. That five-year

lease agreement meant literally nothing. My children and myself freezing for over 16 months, two winters, meant literally nothing.

In those pictures you'll see that I went to the extent of ripping 11 layers of wallpaper off the kitchen and the dining room. I fixed up the whole main floor of the house. I subfloored. I fixed my piping myself. I chopped firewood myself. I did everything for myself and even went to the extent of going to Mr Hardeman's offices and trying to complain. I complained to my municipality, who took a very, very long time to get around to providing me with a compliance order. Once I did get a compliance order — we're talking about fines being levied — there was no fine levied for my landlord. He went 16 months, two winters, violating all of our bylaws that exist in southwest Oxford county and not one fine was levied to him. Not one.

My pipes froze. My dishes froze in my sink. I'm passing pictures around of frozen dishes in a sink. Plants died. If a plant can't live in a house, neither can people, and that's the way I lived for the last two winters. Going into the third winter, I decided I was going to move. I wasn't going to approach my municipal offices any more. I wasn't going to try to get help from anybody. I was just going to fight through the appeal process. Even the rent control process didn't help.

On August 4, my house burned down. I'm still in appeal, fighting for a house that I can't even live in any more. The point is that what happened was wrong. What is most undignified is that I had to suffer the most horrible indecency that you can think of, having no adequate water, which everybody in Canada is entitled to, and having no source of heat but a wood stove in a seven-bedroom house. That is an indecency. Nobody should have to suffer, especially anybody of the human race. I know dogs that are treated better than that.

My house burned down as a result of arson. It's under investigation right now. The gentleman who was a couple of times before us from LIFE\*SPIN was talking about women who can get harassed by landlords. I've had punctured tires. I've had my house broken into. I've had my house ransacked. I've had windows broken. I've had the threat of my landlord coming with his big tractors, pulling my house down from the main beam in my house, and three weeks later my house is burned to the ground with no insurance and no possible way for me to recoup anything.

Then I move into a two-bedroom apartment when I had a seven-bedroom house and all of a sudden I get a letter from mother's allowance saying, "I'm going to cut you off mother's allowance because we've had several complaints." When I was listening to him speak, I thought he was speaking about me, because it happens. Where do the complaints come from? The hotline that's set up. Who knows how many times people have called? Who knows who's called? Nobody really knows. All I know is that I've been treated unfairly by lots of different agencies.

I don't really have anything else to say except that it's not "an" issue or just "the" issue. It's all the issues combined together and the eradication of the poor sector, and I am part of the poor sector. I'm a tenant and I vote



also. I've been voting for 10 years and I wish with all my heart that every other tenant in Ontario would vote, because if the tenants would vote instead of sitting back and passing by the chance to vote, maybe we wouldn't be in the position that we're in now.

With all the protection which now exists, I couldn't get any help. I couldn't imagine, if all these proposed changes go through, what would happen to people like me and my children. Could you imagine? It's very hard to walk to your tap and get water when your pipes are frozen. It's very hard to fix anything when you've got no money. And it's extremely hard to lobby people who don't want to help you in the first place. Thank you.

**The Chair:** We've got about a minute left, if either one of you wanted to make a final comment.

**Ms Gunness:** I probably had some, but I thought our time was up so I didn't bother. I would say thank you.

**The Chair:** Thank you very much for coming forward this evening, both of you, and giving us your input. We appreciate it.

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#### TWIN ELM TENANT ASSOCIATION

**The Chair:** The next presenters are Marylin Bolender, the president, and Keith McLean, the first vice-president of the Twin Elm Tenant Association.

**Ms Marylin Bolender:** Good evening. My name is Marylin Bolender. I'm the president of the Twin Elm Tenant Association in Strathroy. With me is Keith McLean, my first vice-president. We are pleased to be given the opportunity to respond to the proposal paper New Directions for Discussion: Tenant Protection Legislation.

We live in a park that is an owned-home, leased-lot community. We are homeowners first and tenants second, who pay taxes on our homes and on the site we rent. As an owned-home, leased-lot park, we differ from apartment or home renters in that if we are unhappy with the land owner/landlord, we simply cannot pick up and move. However, if Mr Rice and Mr Brother could tell us where we could get a rental site for \$125 a month, perhaps we could investigate that possibility.

We can try to sell our homes, but in many cases the land owner places so many obstacles in the way of a sale that potential buyers back off. Bill 21, the Land Lease Statute Law Amendment Act, 1993, gave us the right to sell our own homes. However, if we do not use the landlord as the agent for the sale, he simply will not allow that sale to go through.

We feel there should be separate legislation for owned-home, leased-lot communities with rules and regulations enforced by the law and the government. We need more protection for our people in owned-home, leased-lot communities, many of whom are widows or seniors and live on fixed incomes. Contrary to Mr Rice, who said that many have ready cash, the majority does not. Our people need to be protected from unethical land owners. Many seniors, especially women, are easily intimidated by what they perceive as landlord authority and most certainly need this protection.

The proposal in the discussion paper to allow landlords to negotiate the rent with new tenants creates some

serious problems for owned-home, leased-lot residents. If by chance we are presented with an offer to buy our home and the landlord sets a much higher rent for the lot, that prospective buyer would justifiably refuse to complete the purchase. Who would be willing to pay significantly more for rent than the previous tenant had paid, particularly if there are also mortgage payments to be made on the housing unit? This proposal would make resale for us as homeowners high impossible.

In our owned-home, leased-lot community we homeowners keep up the maintenance on our homes and on our leased lots plus a good deal of the common areas. Why should the land owner be allowed the set yearly increase in rents plus a huge increase on the rent for a resale property when he has spent so very little money for park upkeep? A part of the rent should, by virtue of good land owner management, be set aside every month by the landlord for capital expenditures. Poor money handling on the part of the land owner is not the fault of the homeowners, and we should not be held responsible for major repairs like roads or septic systems. If my home needs repairs and I can't pay for it, the landlord certainly won't pay for me. I need to budget accordingly and so should they.

In situations where there is a legitimate capital expenditure, there must be a reasonable cap on the amount passed on to tenants. It certainly should not simply be added to the rent year after year. There needs to be some accountability on the part of landlords regarding how the automatic rent increase for capital expenditures is spent by landlords. Tenants at the very least deserve to see where their money is going, and there must also be a clear reduction in rents when expenditures have been paid for and the amortization period is over, otherwise we end up paying forever.

The decision regarding a capital expenditure should not be the landlord's alone. Homeowners and someone at arm's length should be involved in the decision or the landlord could assess and spend at will. We could easily see a return to the extravagant and unnecessary renovations of the mid- to late 1980s. In addition, about the choice of tradespeople hired to do major repairs for land owners, this should be a joint decision. Land owners can exercise too much control regarding who may work in a park. Since homeowners are paying for these major repairs, homeowners should have a part in deciding who will complete the work.

Since 1989 the tenants in our park have had a 51% rent increase, including two whole building reviews, with a third still in the works. In 1988 the land owner was allowed a 12% increase. In 1989 he was allowed a further 14.8%, which was then appealed by the homeowners. This amount was reduced by the rent review board to 13.9%. However, instead of being done then and there, the land owner proceeded to appeal that decision. That case was finally decided in spring this year. The 13.9% awarded in 1989 was upheld. Now we are faced with the problem of recouping the 0.9% owed to homeowners by the landlord.

When the landlord was awarded 12% and later 14.8%, the homeowners had to pay up immediately. For some this meant a considerable hardship. On top of all this the



landlord applied for a whole-building review for 1990-91. This was turned down by rent control, but once again the decision was appealed by the land owner. We homeowners have been involved in legal battles since 1987-88 and they go on and on.

This case will be heard by rent control on October 4. As of yesterday we were advised of the change. We hope it will be resolved and at least part of the issue settled. Even with all these increases coming to the land owner in 1990, he arbitrarily closed down the tenants' clubhouse and seized all club assets. He also denied access to the swimming pool. The club was funded by New Horizons grants and the hard work and donations of the homeowners. To date, six years later, not one item — dishes, pool table, books, furniture, piano etc — has been returned to the rightful owners.

We made an application to rent control for a rent rebate due to the reduction of services. Not one thing has been done about the matter, so the homeowners have proceeded to take the case to Divisional Court. Once again I wish to impress upon this committee that we need protection from unethical landlords who reduce services but apply for increased rentals. Unfortunately all we have been getting are legal bills that we have to pay to protect ourselves and our homes.

I would like to return to the discussion paper and review it with the owned-home, leased-lot situation in mind. On page 5 under the heading "The Landlord and Tenant Act" there is reference to simplifying the dispute resolution system. We agree that the process for resolving disputes is far too lengthy and most certainly too expensive. To date, we have had to pay legal fees of nearly \$30,000 to protect our interests. This should not be allowed. There needs to be a faster way to settle disputes and to enforce the final decisions.

I have had a rental dispute with the land owner and received a decision in my favour in the courts this past spring. There's a copy of the judge's decision in the paper. Unfortunately I'm still awaiting restitution. The land owners had started a co-op in our park. This co-op was formed by management, for management, with management — in December 1994 it was cancelled by the Minister of Finance on the grounds that it was formed for improper purposes; a copy of that cancellation is also with my brief — the prime reason for the creation of the co-op being a very generous increase in rent for the land owner.

After the minister's decision was rendered, the land owner refused to return our rent to the rent control guideline. Instead of my paying a rent of \$156 a month, the land owner demanded \$277. That's a great deal of money every month. After waiting eight months from the dissolution of the co-op for a reduction, I consulted rent control. If you had done away with the rent registry, I could never have gotten the proper amount that should have been charged for my lot. I consulted rent control and was advised of the proper amount due. I tendered that amount to the landlord. Of course it was refused by management. After enduring seven months of improperly served legal papers I was forced to hire a lawyer, at my expense, for a case which I should have been able to

handle myself if it had been handled properly in the first place by the landlord and his agent.

I finally got to court, and the judge agreed that rent control had advised correctly regarding the amount of rent. I paid all rent due that day. To date not one cent of any moneys overpaid by me has been returned by the land owner. I was sold into the co-op by lies and misleading figures, and so were another 23 homeowners. There is something wrong when the system lets us down once again; all we get is the proverbial runaround. Where does it all end?

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A new dispute resolution should be in place through an independent agency. It should be made as simple as possible and must ensure that tenants are protected. Once a decision is made by this independent board, steps should be taken to ensure the decision is enforced.

Privacy: As homeowners we have the right to deny access to our homes. Land owners may inspect the land but not our homes. They have no money invested in them and therefore, unless invited in, there need be no entry by the land owner.

Harassment: There needs to be better clarification of what is meant by harassment. Many seniors are afraid of eviction from their own homes and are afraid to complain about the blatant harassment to which they are subjected. There are many instances I could tell you about if time would permit. I'd be happy to give you a sense of the harassment some homeowners have experienced during question and answer period.

Security of tenure and conversions: If an owned-home, leased-lot community is converted to a cooperative, applicants for the co-op must be thoroughly investigated by the appropriate ministries to ensure that a fiasco such as we just went through cannot happen again. To seniors it can be a life-threatening situation: You lose your money, your home, your dignity and your health. Not all co-op applicants are honest and trustworthy.

Care homes: We are not involved, so there's no input.

Mobile home parks: Tenants must retain the right to sell or lease their own homes without interference by the land owner or outrageous fees for facilitating the sale. The right to purchase goods and services of our choice must also be ensured. If we deal with a tradesman not of the land owner's choosing, that tradesman is often banned from the park.

Regarding the obligation to maintain our homes, the pride of home ownership is very evident in our park. I wish I could say the same of the land owners. Landlords have an obligation to maintain the grounds and the infrastructure without charging unreasonable fees. Please enforce this firmly.

In our community, minimum lawn care is done and absolutely nothing else. Fences are falling down in disrepair, some badly in need of a coat of paint. The weeping bed smells atrocious. The roads and services all need work, but the landlord continues to disregard this and will until the situation goes beyond repair.

All problems in our park have gone through all the proper legal channels: judges' decisions, rent review guidelines and government bills like Bill 21. Still our



land owner ignores the law and his obligations. We need somewhere to turn for help.

I advise and humbly ask this committee to ensure that we receive genuine tenant protection and strict enforcement of the law. All tenants need protection and all tenants need someone to whom they can turn for help.

I thank you for the opportunity to speak.

**Mr Sergio:** What you have said is what we have heard from other tenants in a situation like yours as well. That is an area that I hope the government people are listening and hopefully change this particular proposal here that I think should be brought back totally as it doesn't do anything to solve your problem, and I'll tell you why.

It says here, "requirement for a notice of violation prior to work order will be removed." You would think that now if you've got a problem, the inspector comes and will issue a work order right away. Right?

**Ms Bolender:** Ha, ha, ha, ha.

**Mr Sergio:** It doesn't work that way, because the next line says, "notice requirement for property standards officers will be streamlined." Now, which one is first: the total elimination or streamline it? The government must get it straight first before we get some answers for a problem like yours. I hope that what you said will sink in and will be able to bring some relief to a situation like that.

**Ms Bolender:** So do I.

**Mr Marchese:** Thank you, Ms Bolender and Mr McLean, for the presentation. It's quite amazing to hear your stories as we heard Christine's stories just before you. She said, "Imagine, suffering the kinds of experiences I'm suffering under rent control and under the existing policies, what it would be like to change all of that and have to go through less protection as we're seeing with what is being proposed." It's quite frightening.

You mentioned a few quick things and I want to ask you a quick question if I can. No repairs have been done, very little maintenance and yet the annual increases have been happening.

**Ms Bolender:** Exactly.

**Mr Marchese:** I have to agree with you with respect to accountability of where those moneys are going because we've heard lots of stories of bad disrepair, moneys being received but not being spent. It's an incredible story to hear. Can you answer another question with respect to cost pass-through? They will be eligible for a higher cost pass-through allowance for capital expenditures under the new proposal. Can you tell us how that would affect the tenants if they did that?

**Ms Bolender:** It scares me to death to think that this could even happen. Our tenants are all seniors, and as I said before very easily intimidated. If the landlord can at will say, "Okay, I need to fix this and I need X amount of dollars," for a lot of our people it's not in their budget. It's just unconscionable to think that we have to pay again when we've already paid once.

**Mr Smith:** Thank you for your presentation. As Mr Marchese has indicated, we've heard quite a bit of input on this issue across the province, and particularly so in Thunder Bay when we were in northern Ontario. My feeling of the whole issue is the issue of home-owned,

leased-lot communities is not very well understood in the first place.

**Ms Bolender:** Exactly.

**Mr Smith:** So there's a challenge there, and that's an issue we're going to have to address as part of this report. You raised a concern about a cap on pass-through expenditures. Have you given any thought of how that might be calculated? What is a reasonable capping procedure? I realize that will vary from site to site because we have a variety of servicing arrangements and conditions on different sites across the province. Have you given any thought to that issue?

**Ms Bolender:** We did to some point. Just a second here now until I find it.

**Mr Smith:** I think you raised in your presentation — you simply made reference that there has to be a cap.

**Ms Bolender:** There has to be a cap and I do have it someplace here. Sorry. Capped at 4% over a two-year term. This comes from the owned-home, leased-lot federation to which we belong. We had a meeting in Newcastle and that's what we came up with, that it would be capped at 4% over a two-year term.

**The Chair:** Thank you very much folks. We do appreciate your input into our discussion process.

**Ms Bolender:** Thank you for the opportunity of approaching.

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MARY JANE WHITE

**The Chair:** Mary Jane White? Good evening. Welcome to our committee.

**Mrs Mary Jane White:** Good evening. Thank you for allowing me to address the committee this evening. Unluckily it seems, I'm one of the landlords. I've just got a statement that I'd like to make and I'm going to make it short and sweet.

Progress enters all parts of life if we let it. What used to be known as trailer parks progressed to mobile home parks, which are now known as land-lease communities. These land-lease communities are becoming an important part of homes offered.

I have been involved with mobile home parks for many years, and as an owner of one of these communities, I have struggled to maintain a certain integrity. The rent I receive for my mobiles is \$113.69 a month. In three years, I have received a \$9 increase per site. At the rate we are going, it will take at least 10 years to get to \$150, which is still very, very low. The higher the rent, the more the guideline increase; the lower the rent, the lower the guideline increase. An apartment which pays \$500 a month will receive a \$14 increase. We will receive \$3.18.

I have just had to put in a new septic system for three mobiles, which cost \$10,000. The city water is coming through at a cost of \$16,000, not to mention the new lines that are needed after the city water is through.

Many things could have been done in the past if the money had been there. I have been in touch with rent control many times, I have written my MP, I have written Al Leach. Communities like mine cannot continue to operate in this manner. Waiting for a tenant to sell or



leave is absolutely ludicrous. We will probably wait for 10 to 20 years. There is no turnover in our park. Isn't it a disgrace that I would have to wait for someone to die in order to get a higher rent?

We have waited for a government that will listen. Please do. You're not helping tenants in this way. Conditions cannot improve, but deteriorate. Give us some help. Set a base rent at least of \$175.

There are a few cases, such as a park that is located close to Scaforth. This park receives \$89 a month rent. It has 35 homes. The septic systems are failing. They have been approached by the MOE, and \$63,000 is the cost to put in a new system for these mobiles. If this fellow cannot get a loan, he's going to walk away from the park. What is going to happen to the tenants there? Either the municipality or the government will take over. I don't know if they are willing to pay the repairs for the system. We, as members of the OMHA, know and we're wondering if you've done your homework on that situation.

Also, another park situated right in London on Springbank Drive. It's quite a lovely park. The tenants there pay \$137 a month. They are looking at having to do repairs on the sanitary sewer system to the tune of \$8,250. Effective January 1996, the city of London instigated a sanitary sewer surcharge based on how many cubic feet of water are billed. Property taxes were lowered to accommodate this charge. Since the Cove mobile home park pays the water bill, Cove also is required to pay the sanitary sewer surcharge; however, the tenants receive the property tax reduction. Is this fair?

I guess you're seeing both sides of the coin. The only thing I have to say is that I realize there are a lot of parks that are receiving adequate rents, but there are also a lot of parks that aren't. If it continues, they're not going to be able to do the repairs that are necessary.

**The Chair:** We've got about four minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** Mrs White, you've heard the previous speakers on this.

**Mrs White:** Yes, I have.

**Mr Marchese:** Do you have a reaction to all of that?

**Mrs White:** Yes. I feel deeply sorry for their situation and there's got to be something that can resolve both sides. I understand their situation and I hope they can understand my situation.

**Mr Marchese:** I appreciate that. Would you say that their situation is unusual?

**Mrs White:** I really don't know. I can't answer that. I haven't been involved with anything of that type. As a landlord, I bend over backwards to try to appease and help people out. I'm certainly not going to leave someone without heat.

**Mr Marchese:** But you are a landlord of a park?

**Mrs White:** Mobile home park, right. Which is a little different from apartments and houses.

**Mr Marchese:** Sure, I appreciate that. How long have you been a landlord of a mobile park?

**Mrs White:** I have been involved in parks and mobile homes all of my life. I've owned my own park since 1988. However, my family has been involved in the mobile home sales and parks my whole life.

**Mr Marchese:** But since 1988, you started owning your own park.

**Mrs White:** That's correct.

**Mr Marchese:** And the rents were what when you got there?

**Mrs White:** They were somewhere in the vicinity of \$79 to \$80.

**Mr Marchese:** And since then, they're now at — what did you say?

**Mrs White:** At \$113.69.

**Mr Marchese:** So you have been applying for an increase yearly?

**Mrs White:** That's right.

**Mr Marchese:** Have you managed to put some of that back into repairs, or you really can't because you're not making a whole lot. Is that it?

**Mrs White:** No, absolutely everything that I have received has gone back into repairs.

**Mr Marchese:** Are you doing all right?

**Mrs White:** No, I'm not.

**Mr Marchese:** Can I ask you, when you got into the business in 1988, did you have a business plan? Did somebody make you a business plan to say that you've got a problem here, but you got into it anyway?

**Mrs White:** We're a family of park owners and this is something we've done our whole life. This is the only thing that I really know — mobile home sales, travel trailer sales and mobile home parks. I got into it with the hopes that maybe things would get a little better. I didn't really realize what I was getting myself into in the ownership of my particular park. We have systems that are old, that need to be replaced. Every cent I am receiving is going back into the park to repair and upgrade it.

**Mr Marchese:** You heard Mrs Bolender talk about the number of increases they've had and the number of maintenance problems they've had with this landlord. One of the questions they raised around capital dollars and guideline dollars and beyond guideline dollars, which they received in the 1987, 1988 and 1989 period, was that it didn't seem to go back into the maintenance of those homes. Would you support an accountability mechanism that lets them know where your money is going?

**Mrs White:** Absolutely.

**Mr Marchese:** I'm not sure what else we can ask you. Clearly, we have some good landlords in this field and some bad ones. We've obviously heard of some pretty bad cases.

**Mrs White:** Yes.

**Mrs Boyd:** Have you been applying for and receiving over-guideline increases for capital expenses?

**Mrs White:** No, we haven't.

**Mr Boyd:** Can you explain to me why not?

**Mrs White:** Because if I were to receive over-guideline expenses for my park, I would be receiving somewhere around \$1,000 to \$1,200 a year more. That would take 10 years to pay for that one system. I guess I should have. I just felt that I was totally overwhelmed with the rent control system. I didn't feel that it was going to help matters. It's the same with a lot of these other park owners. Three per cent is going to give me somewhere in the vicinity of \$1,100 a year more.



**Mr Maves:** In the area, how many mobile home parks are there?

**Mrs White:** In my area?

**Mr Maves:** Yes, in the London area.

**Mrs White:** I'm not particularly in the London area, so I really can't comment on that. In my area there are two other parks. They are a little newer than what my park is and they're receiving somewhere around \$170 a month.

**Mr Maves:** Roughly how many people or families are housed in these mobile home parks in your area?

**Mrs White:** One has 53 homes, I think the other has somewhere in the vicinity of 45 homes, and I have 31.

**Mr Maves:** If this imbalance that you're facing right now isn't rectified and the one person who's worse off at \$89 a month, that supply of homes would just be lost?

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**Mrs White:** I don't really know exactly what would happen if that park owner at \$89 a month were to, let's say, give up and walk away. Would the municipality be willing to step in and do the necessary repairs? Are they willing to put that amount of money into something they're not going to get back? Are they willing to let those people lose those 35 homes?

**Mr Maves:** It's a bad situation. We don't want to lose stock. So regardless of whether you did a business case scenario or not, it would be nice to see a flexible rent control system that would allow that stock to stay on the market for people.

**Mrs White:** That's right.

**Mr Maves:** You mentioned that you put everything you get back into your park. For \$113 a month, can you tell me what types of costs you have that maybe most people won't see on the face of it?

**Mrs White:** Yes, I would be more than happy to. I have a dumpster in the park, and that dumpster costs me \$87 a month. I have snow removal that I have to pay for. That costs me \$500 in the wintertime. Just recently, as I said, I spent \$10,000 of saved-up money in the bank on putting a new system in for three mobile homes. The rest of the mobile homes are sitting on older septic systems which we have to keep maintained. Therefore, we are pumping them quite frequently, and it costs somewhere in the vicinity of \$75 to \$200 per system to pump. The water lines that exist in the ground right now are old and in terrible disrepair, so we are constantly digging and having those repaired. I am the only one to look after the park. Therefore, I have to hire outside help. I maintain the grass in the park. It just goes on and on.

**Mr Maves:** It's very clear from the presenter before you and yourself that the system's not helping anyone.

**Mrs White:** No, it isn't. Especially the people who have such chronically depressed rents.

**Mr Sergio:** We had quite a few landlords coming to us and saying, "Look, I'm entitled to make a profit."

**Mrs White:** Yes, I think everyone should be.

**Mr Sergio:** Would you say that you would like to make a profit?

**Mrs White:** Yes, I really would, and down the line I'm hoping it may turn out that way.

**Mr Sergio:** That's being honest. Do you mind if I ask you a question? You've been in business all your life?

**Mrs White:** Yes, I have.

**Mr Sergio:** You've been struggling?

**Mrs White:** Yes, somewhat.

**Mr Sergio:** Usually a landlord who can't make it after so many years says: "You know what? I'm selling, I'm getting out of it."

**Mrs White:** That's right.

**Mr Sergio:** Why are you persisting?

**Mrs White:** Number one, the majority of parks with such chronically depressed rents are not sellable.

**Mr Sergio:** For you to make it worthwhile, make a good living, make a profit, how much would you have to rent or lease the site for?

**Mrs White:** I would like very much to see across the board people receiving at least a \$200-a-month rental per site, but I feel \$175 would be more than adequate for myself to do the repairs. As I said, next summer I'm looking at \$16,000 for the city water that's going to be coming past the park; that's not bringing it into the park.

**Mr Sergio:** Do you believe the market would bear that amount of \$175 a month?

**Mrs White:** I believe my park would. I believe the park on Springbank Drive here in London would. I realize that the park I'm talking about near Seaforth is so chronically depressed that to increase it to \$175 you're looking at somewhere near \$100, but for repairs and maintenance to be provided on that park it does need that form of rent.

**Mr Sergio:** Last week up north, I think it was in Sault Ste Marie or Thunder Bay, one landlord said that a tenant brought in his mobile home and sublet the unit at a much higher rent.

**Mrs White:** Yes.

**Mr Sergio:** Do you have cases like this in your park?

**Mrs White:** No, I haven't yet.

**Mr Sergio:** Have you heard of cases like this?

**Mrs White:** I have.

**Mr Sergio:** Do you think that's possible?

**Mrs White:** That they would sublet at a higher rent? Yes, it is possible.

**Mr Sergio:** And there is nothing you can do as the owner?

**Mrs White:** If you look at the rents I've mentioned, it wouldn't take very much to be getting a higher rent.

**Mr Sergio:** But it's allowable, it's no problem, they can do it? Under the present legislation, they can sublet their unit?

**Mrs White:** If you have landlords who have been so seriously depressed for such a long time, there is no fight left in them. If subletting occurs, at least the mobile's there and there is money coming in.

**Mr Sergio:** Mediation: Do you do any of that?

**Mrs White:** Myself?

**Mr Sergio:** With your tenants?

**Mrs White:** No, I haven't had to.

**The Chair:** Thank you, Ms White. We appreciate you coming forward this evening and giving us your input.

1095 JALNA NON-PROFIT HOMES  
TRANQUILITY HILL HOMES

**The Chair:** Our next presenter is Bert Ruppel, president of 1095 Jalna Non-Profit Homes and Tranquility Hill Homes. Welcome to the committee.



**Mr Bert Ruppel:** Thank you, ladies and gentlemen. What I've heard from this committee at other locations doesn't seem good. Like all government legislation proposed in the past and passed into law, this white paper is also meant to lessen the bite on the well-to-do and the fortunate against protection afforded for the not-so-fortunate and those in need of protection. Protection is not needed by the landlords and developers that this new bill will afford.

Twenty minutes is not enough time to cover the wrongs with this white paper. I believe that I'm allowed 10 minutes, with 10 minutes for questions.

**The Chair:** You can split the 20 minutes up however you want, sir. You can talk for the whole 20 minutes and allow no time for questions. That's your choice.

**Mr Ruppel:** In all my years and my past education, I cannot recall a government in Canada that has done so much against the masses. Only in Europe, Africa and South America have right-wing governments committed so many atrocities against the populace. We know of Germany in the Dirty Thirties, apartheid in South Africa, and the dictatorial rule and the class conflicts of our southern hemisphere neighbours.

No, you say? There's no semblance, and I'm trying to compare apples and oranges? But, ladies and gentlemen, there is. In Germany it was race: fatherland against the Jews. In Africa it was race: blacks and Afrikaners. To the south are the poor majority against the wealthy minority, and the minority are the European people against the native Indians. In Europe — Germany — as well as the Middle East, it was the wealth of the Jews and their intellect that were used in the attempt to eradicate that race. In South America, the multitude of the poor are held under the heavy thumb of the wealthy to suppress any advancement of locals by our Canadian and American international corporations, with the support of governments that run those countries today.

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If directors of public, private and not-for-profit corporations can be held responsible for their actions, so should you, members of Parliament, who are responsible to the public service and the laws of the provincial and national governments. Since you directly affect the lives of people you're concerned with, someone must be able to hold you accountable for your actions, and not just at election time.

At present, only the electorate can do nothing except at your whim, when the Premier calls an election if he feels the time is in his favour. There should be some form of member recall by the electorate when members of government get out of hand and, *carte blanche*, pass bills that are not in the interests of the majority and favour the minority.

We have here in London hundreds who are seeking affordable housing. The government claims it has saved \$500 million over two years by wiping out allocations for non-profits. These non-profits would not have cost the province anything compared to what this government is going to cost the province, in addition to setting the social structure back 20 to 25 years.

The subsidies paid out in the plan were to be paid back to the government after five years under a co-op or a

non-profit. Now, what has it cost the taxpayer? Nothing. The mortgages are from private banks. Those mortgages are paid back from the rents of the non-profits; therefore, it hasn't cost the taxpayer anything. The government says it's costing \$500 million. What it did cost them was the difference of the rent geared to income, which they're paying out anyway.

I represent two non-profit tenant associations. We were planning not to use government grants, only the borrowing power the government afforded us. With the rent geared to income, we could have placed 150 of the 420 families we have on record into affordable accommodation. But no, a loose-lipped candidate from northern Ontario thought it would elect him if he used the welfare system and people on welfare as a whipping stone. Instead, it will now cost the province hundreds of millions of dollars for the damage it has incurred, plus court costs, the time, manpower and effort, just because of a loose-lipped egotist who wanted a pat on the back by his right-wing buddies.

In fact, I don't see any of the ministers of this government cutting back on themselves. Do you? They now ride around in chauffeured limousines at the taxpayers' expense. I'm not an NDPer, so I'm not complaining because of that.

Landlords are continuing to ride roughshod over tenants by doing very little in repairs. The repairs they do are with wrong materials, makeshift or non-applicable materials for the job they are intended for. This adds cost to the building and depreciates its value. You people are proposing that the landlords be given more free hand. What is this going to do? More shoddy work and workmanship.

As an example, rotted wood about windows and doors is supposedly repaired with black roof tar. A couple of hours' labour; the cost, approximately \$25. It's been done twice in the past month and it'll be done throughout the winter. The total cost, if done properly, would have been \$80 with new wood and properly painted.

The act doesn't even touch on such matters. These are the things that you should be interested in, not saying, "Oh, the rent's going to stay the same until I move out and then you can have the right to extend it at any level you want." Well, as an example, this is only one instance. The same landlord has already told a number of tenants, including myself, that when rent controls come off he will allow anyone to get out of their lease. You know what that does. That increases the rent to exorbitant amounts without doing the proper repairs to the building. You haven't done anything to answer that. This bill doesn't even cover that. You're better off with the old Landlord and Tenant Act and the Residential Rent Regulation Act and the Ontario building standards act. Those three acts alone we could do something with, but not with this new one.

If you think this new bill will do wonders to protect the tenant, you should think again. It does very little and less than the current Landlord and Tenant Act, as I've reiterated, and the Residential Rent Regulation Act combined with the Ontario rent.

If there are any other questions, I'll certainly answer them. I have the figures with me. I don't have the facts,



but I do have those figures because I've been going over them for months.

**The Chair:** We've got about three minutes per caucus for questions, beginning with the government.

**Mr Maves:** You mentioned non-profits. Are you the president of a non-profit?

**Mr Ruppel:** I am the president of two non-profits.

**Mr Maves:** I'm just curious, because I don't know how this is determined. How does someone become a president of a non-profit?

**Mr Ruppel:** Well, we're the first in the province. We came into existence during Evelyn Gigantes's time. We were a tenant association. We decided that, enough of this, we were going to form our own non-profit and a tenant association non-profit. So all our members were members immediately. They elected a board of directors and I was elected to that board. As chairman of the board, I was also founding director of 1095 Jalna Tenants Association Inc. I've tried to leave the job three or four times. I've ended up re-elected each time and in addition I've taken on the responsibility of a tenants' advocate for the city of London.

**Mr Maves:** You mentioned that non-profit housing, the government — for the next however many years your mortgage is for 35, which I think is normal — subsidizes on a rent-geared-to-income basis each unit. What's the average that each unit's subsidized for?

**Mr Ruppel:** The Ministry of Housing had put a stipulation of 70% would be subsidized housing; 30% would be market value rent. The 70% was based on their income, \$27,000. That today is around \$28,000. You would then receive a portion of your rent from the province.  
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**Mr Maves:** What's the average subsidy for those units, the 70% that are RGI? What's the cost per unit to build? What would be the rent if it was just free market?

**Mr Ruppel:** The cost of these units is approximately between \$80,000 and \$100,000, provided you build them according to the ministry standards.

**Mr Maves:** What's the rent per month on market to pay it off?

**Mr Ruppel:** Market value on those units is around \$850, \$800 a month.

**Mr Curling:** I'll just follow through on that because I'm so glad you brought up non-profit because, with respect to my colleagues, I'm not quite sure how embracing they are to non-profit. Explain to us again, do those who have market rent in there pay the same amount of money as if they had gone next door to the private sector and paid that same amount?

**Mr Ruppel:** That is true.

**Mr Curling:** Therefore, they are not subsidized by government?

**Mr Ruppel:** Usually those market value rents on a non-profit and a co-op are much higher than what it is for the market value rent on the general public.

**Mr Curling:** So if someone has a belief to say that people who are in market rent units in the non-profit are not being subsidized by government, as a matter of fact, they are subsidizing government.

**Mr Ruppel:** They're subsidizing the government, yes; not the government subsidizing them.

**Mr Curling:** You see, I want to understand it because I thought I understood it that way all along, but many of my colleagues sometimes believe that they are carrying it on the backs of the government.

Was the concept one of where we don't want to ghettoize people in low income but to build a community, that's why the non-profit came about?

**Mr Ruppel:** Yes. Our non-profit came about as a tenant association non-profit, which are the only first two in the province of Ontario whereby the tenants control the board of directors, elect the board of directors, who administer the non-profit in such a way that it either breaks even or makes a slight profit. If it makes a slight profit it pays off that mortgage faster.

We had a scheme where we would take and run our own non-profit without a subsidy from the government. That subsidy now is the operating difference between what you would have for your full budget and what you would require to operate the complex for a year.

**Mr Curling:** The private sector states that if you could get that RGI and give it to them they could develop a community as well as a non-profit co-op. Could that be achieved if we just chased those people out of the non-profit and say, "Give it to the private sector; we can develop the same community?"

**Mr Ruppel:** No, no, you couldn't, because you wouldn't have anyone who would be willing to organize. We don't get anything for this. It's been said that we are looking for a job. That was during the election. I've worked for five years now, I've lost \$50,000 a year in business, and I have a business loss on paper of \$23,000 a year for the last five years.

**Mr Marchese:** Mr Ruppel, you obviously know this government has no interest in non-profit housing or cooperative housing.

**Mr Ruppel:** Certainly. I certainly do.

**Mr Marchese:** I just wanted to be sure of that. We, as the New Democratic Party, and formerly a government, believed that we needed to create housing for those who have low incomes by and large, and we felt it was the government's responsibility to do that. They argue differently. They argue the government should not be involved in this issue of housing because they say the private sector should do that. Do you want to comment on that?

**Mr Ruppel:** Yes, I certainly do. How would you like to be paying \$750 a month in rent as a mother on mother's allowance with two children receiving less than \$1,000 a month? What are you going to buy for groceries? What are you going to buy for day care? What are you going to buy for food, clothing, medical expenses? What entertainment are you going to have in life? And I certainly know that you people have a lot of entertainment compared to what these people would have.

**Mr Marchese:** When you have power and privilege it certainly is a little better than most. No doubt about that.

**Mr Ruppel:** I can afford entertainment, but I can certainly assure you that mothers on mother's allowance can't.

**Mr Marchese:** Part of what we did with cooperative housing was to create communities that we felt were livable communities. In the past many governments built



housing where they housed all people who were very poor and, as a result, it created a lot of problems. In the cooperative housing model we have different people of all income ranges, of all different communities, housing the various different needs of people and, as a result, you have a community that is able to sustain itself and is able to accommodate the various income differences and sometimes racial differences as well. That's why we speak of communities as cooperatives. I'm not sure that the private sector builds communities that take all of these things into account. Are you aware of any?

**Mr Ruppel:** Yes, they do. Various groups do. There are some groups — well, I would class them as bigoted;

maybe you would too — where they have one group for one nationality, another group for another nationality. As a tenants' association, I represent everyone.

**The Chair:** Thank you very much, Mr Ruppel, and thank you, Mr Marchese, for your questions. We do appreciate your being here tonight, sir, and giving us your input.

On behalf of the committee, thank you to the folks of London for your input today — we do value it — and for your hospitality. We now stand adjourned until 11:15 in Kitchener tomorrow.

*The committee adjourned at 1956.*







## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
\*Mr Ernie Hardeman (Oxford PC)  
\*Mr Rosario Marchese (Fort York ND)  
\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
\*Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
\*Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello  
Mr John L. Parker (York East / -Est PC) for Mr Young  
Mr Bruce Smith (Middlesex PC) for Mr Flaherty  
Mr Joseph Spina (Brampton North / Nord PC) for Mr Tascona

### **Also taking part / Autres participants et participantes:**

Mrs Marion Boyd (London Centre / -Centre ND)

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Mr Jerry Richmond, research officer, Legislative Research Service



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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 5 September 1996

# Journal des débats (Hansard)

Jeudi 5 septembre 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Thursday 5 September 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Jeudi 5 septembre 1996

*The committee met at 1116 at the Valhalla Inn, Kitchener.*

RENT CONTROL  
GREG LAMPERT

**Mr Wayne Wettlaufer (Kitchener):** Mr Chair, welcome to Kitchener, God's country.

**The Chair (Mr Jack Carroll):** Thank you very much, Mr Wettlaufer. It's nice to be in Kitchener.

Welcome, everyone. Our first presenter this morning is Mr Greg Lampert, whose name we've heard banded about very much in the last three weeks. This morning he gets to tell us exactly what his report said and gets to respond to some questions. Basically, the format is that Mr Lampert has 10 minutes. Each of the opposition parties, beginning with the Liberals, has 12½ minutes, and the government has 10 minutes. That is an agreement that I understand was arrived at somehow.

**Mr Alvin Curling (Scarborough North):** There was no such agreement, Mr Chairman, but you've been such a good Chairman, I'll go along with it. I'm very upset about it, but I'll go along with it.

**The Chair:** Thank you very much, Mr Curling. I appreciate your support. Mr Lampert, the floor is yours.

**Mr Greg Lampert:** Thank you very much. I thought I was going to be talking for a little longer than 10 minutes, so I'll have to talk quickly. I will do my best. I was the author of the discussion paper *The Challenge of Encouraging Investment in New Rental Housing in Ontario*, commissioned by the Ministry of Municipal Affairs and Housing. The reason for the assignment was to try to identify the reasons no one was building new private rental accommodation in Ontario and to suggest ways that such investment could be encouraged.

The outline of my presentation today is that I'm going to give you some background. My report dealt with four public policy areas impacting on new rental investment: regulation, taxation, development costs and financing. I'm only going to talk about regulation and hopefully taxation a little bit today, and then the action plan to stimulate new rental housing that I recommend in my report.

By way of background, I'm sure you've seen these charts quite a lot. Why was I commissioned to do a report? I was commissioned to do a report because nobody's building new private rental accommodation. You can see the dramatic decline over the past several years. There also is a looming crisis in some parts of the province, particularly Toronto: Vacancy rates are coming down and they're going to get lower. No one's building, there's no new supply, and demand continues to increase.

Key elements that people have to understand looking at the rental market are:

Private investors won't build rental accommodation unless it makes economic sense. They can make 8.2% on their money on a 30-year Ontario government bond right now. If they can't look at higher returns than that from rental investment, they're not going to look at rental investment.

Not all private rental investors are the same. There are lots of different types of investors who will look at different properties, different potential investments, differently.

New private rental generally targets the high end of the market. This is reality, this is the way it's always been. If you get investment, that's where it's going to be.

The next point, though, is that that doesn't matter if you're looking at encouraging new rental investment to try to alleviate the tight markets we've got in Ontario. Filtering does work. If you build at the high end, it filters. You get an impact all the way down the line and you get vacancies all the way through the stock. There are some charts in my report that actually demonstrate that.

There's a significant gap between economic and market rents in many centres, particularly in Toronto. It's the main problem market for rental housing in Ontario. It's the tightest market, 0.8% vacancy in October. Only Barrie and Guelph also have very tight markets below 1.5%. Toronto is a special case. Most other markets in Ontario aren't in urgent need of rental housing. That's not to say that they can't benefit from it, but they're not in urgent need.

The Toronto rental supply is eroding due to the gradual sale of the oversupplied condos from the glut times. The economic-to-market-rent gap is widest in Toronto; that is, the gap between the market rent and what somebody has to pay in terms of cost is widest in Toronto compared to other centres. With no new non-profits and eroding condo rental stock because of the gradual sale of the oversupplied condos from the glut times, tighter rental markets are inevitable in Toronto.

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Regulation is one of the four policy areas I looked at. The key issue clearly is rent controls, as far as potential landlords, potential rental investors, are concerned. Rent controls are the paramount issue. Other concerns are:

The Rental Housing Protection Act. Also a concern, not as serious, but a concern.

Landlord and tenant relations. The problem of professional tenants and not being able to evict problem tenants quickly is a serious problem for landlords as well.



Also, and this is the thread underlying my report, is the danger of a later government changing the system yet again and reimposing strict controls. If we do something, let's make it fair for both sides, landlords and tenants, get a system that actually works for both sides so that future governments won't be tempted to tinker with it and change it again.

My conclusion was that substantial easing of regulations is required, but complete decontrol of the rental market is not in the long-term interest of either tenants or the housing industry.

My recommendation in the report was a model similar to that put in place by the BC NDP government. I think it's a great system. It provides protection for sitting tenants. It provides for arbitration of disputes between landlords and tenants, whether it's for rent increases, harassment of tenants by landlords or unacceptable tenant behaviour. The key element from the point of view of the rental housing industry is that there's no controls on vacant units. When that sitting tenant moves, the landlord is free to rent the unit for whatever the market will bear. I think that's a good system. That's what I recommended, something similar to that for Ontario. In fact, that's what the government basically has done. How am I doing?

**The Chair:** You're doing great.

**Mr Lampert:** Okay. I've got three more slides. I want to put a little plug in here for taxation. That's one of the other three major areas I looked at and it's key to rental investment. The key issues here are, first, income tax treatment. In the past there was very favourable income tax treatment for rental housing. That's not the case any more. Now it's treated much like any other investment. Landlords are having to treat rental housing as an investment, much like anything else. There's nothing anybody wants to do about that; that's just reality.

The next one is the GST. GST was very unfavourable for rental investment. If you buy a new house, you pay effective GST of 4.5%. If you build a new rental building, it's 7%. Harmonization, as it's being proposed in Atlantic Canada, will make that even worse. You'll pay effectively 15% on a new rental building. Harmonization, and I want to say this to the committee today because it's an issue which probably will come at some point, would be disastrous for rental housing unless specific allowance is made to reduce the rate, similar to what is done with owner-occupied housing.

The third point is property taxes — a very unfair unburden on rental housing. In some municipalities three to four times as much property taxes are payable on a rental building compared to a similar owner-occupied building. That's just not fair and it's also crazy when we're trying to encourage new rental investment, and also when one recognizes that most of the tenants in rental buildings tend to be lower-income people, relative to owners. My recommendation from the report is that in the long term we've got to equalize the property taxes, particularly for new buildings, right off the bat. We also should be working to ease the GST and to harmonize the PST.

In summary, key elements are:

Rent regulation similar to the BC model. That would, in my view, provide assurance regarding a future rent

control environment. I don't think another government would want to change it. Once it's in place it's a fair system.

Phase in fair property tax assessment — an immediate reduction for new buildings.

Streamline regulations.

Harmonize the PST/GST with caution.

The final point is my views on the government's proposed package. I'm a very strong supporter of the government's package. The key elements of the package are similar to the BC model. It provides protection for tenants but also fairness for landlords. There's assurance there for new projects regarding regulations and a fair and workable tenant protection package. There would be less incentive, as I said, for a future government to change it. I'm hopeful also on property taxes, but that's beyond the scope of this commission.

The effect of the package on rental construction: I think the changes to the regulatory environment will be a very positive force to stimulate new rental activity, but you have to recognize that it's not the full package that I recommended in my report. It will be a very positive measure, but it won't be the full package. But the good news in that sense is that it's not an all-or-none situation. If you make incremental changes such as are recommended in the government's package, that will result in incrementally more activity. The more you do, the more activity you're going to get.

**Mr Curling:** Thank you very much, Mr Lampert. We awaited you a long time. We had hoped to get a much longer time with you, because I find that your report is extremely important. As a matter of fact, last night I picked up a report to read; while I was doing that, I thought I was reading your report, but it wasn't yours. It was the New Directions report, though the government distances itself from your report from time to time. I think it's a very important report, extremely important, but they only give me 12½ minutes in which to do this, which I completely object to, because this is so important.

Based on this very extensive consultation you've done with representatives from the rental housing industry in Ontario, who did you consider to be in that group? Tenants and tenant advocates who appeared before the legislative committee, when they were asked about the input, stated that they were not consulted. Could you tell me who you consulted to prepare this report?

**Mr Lampert:** No, I did not consult with tenant groups. That's absolutely correct. That was not my mandate. My mandate was to discuss with potential rental investors and associations representing potential rental investors what would be required to interest them in building new private rental accommodation.

My mandate was to look at the supply side of the market, try to identify why people weren't building private rental housing, because they're not, and what would be required to get that working again.

**Mr Curling:** You're an economist, Mr Lampert, aren't you?

**Mr Lampert:** That's right.

**Mr Curling:** One of the greatest investors in any of the market are tenants in this kind of market, because



they're the ones who are going to purchase it. You from time to time talk about economic rent and market rent, and one of the greatest friends of the free enterprise system in this situation is rent control which brought about legal maximum rent. Many of the landlords came to us and said, "There is legal maximum rent here and we just can't get it because the marketplace determined this." How do you feel about that? Isn't rent control — said to be the greatest enemy, the great monster — the greatest friendly monster, the greatest friend to the landlords in this situation?

**Mr Lampert:** Yes. Actually, you're right. For some existing landlords rent control has been a very positive factor, but not for the reasons you might suggest. The reason it's been a positive factor is that it's kept competition out of the market. It protects, to some extent, existing landlords from the competition that would come from new rental investment because it keeps that investment out. It ensures, in many areas, a very tight rental market, certainly in Toronto, and allows them the luxury of passing on the guideline rent increases all the time, for a large portion of the market — not all the market, because a lot of the market isn't at its legal maximum.

But you have to draw a distinction here between the existing landlords, many of whom have been favoured by rent controls, who can pass along that normal increase, and potential renter investors, the people who are going to increase the size of the stock and get us back to a balanced market situation, which is where we want to get to.

**Mr Curling:** Let me go to another economist, Reagan, who felt that —

**Mr Lampert:** Economist?

**Mr Curling:** Well, the trickle-down theory was there a long time and was made famous by Reagan and Thatcher. You stated that it works. How long would that take? Let me tell you who I'm concerned about: those very low-end-of-the-market people, those \$20,000- or \$30,000-in-income people who need accommodation.

If everything goes well — rent control goes, regulations, the government props up the developers — how long would it take for those people to be housed? Considering that all the non-profit housing has been cancelled by the government, and considering that the most vulnerable people have been gouged by the government for 21.6%, and considering also the regulations that will be changed in the meantime, how long will it take the investors to come and invest at that end of the market and how many units would you see being built?

**Mr Lampert:** As I said in my brief presentation, no one is going to be building at the low end of the market. That's not traditionally where the market for new private rental housing has been; they build for the higher end of the market. What happens — and this is theory, but it's also reality — is that by providing accommodation at the high end of the market, they pull relatively higher-income people out of the existing stock into those units, which frees up units in the existing stock, and a chain of vacancies starts to occur.

We saw it in spades in the early 1990s when the condo glut hit, a huge increase in vacancies throughout the rental market. The greatest increase was in the higher-rent

stock, and if you want to refer to page 15 of my report, it shows the vacancy rates by age of building. It goes all the way down, the vacancy chain. The vacancy situation changes for the whole market; it doesn't just go up at the high end and leave the low end very tight. This is reality. This is how it will work.

Now, when will this all happen? It won't happen until we get new private rental investment actually in the ground and built. We're in for a tough time for the next few years while we wait for that investment to occur. That investment won't occur without changes like we're talking about today and hopefully with the property taxes as well. But as I've said, it's not an either/or situation. You don't need to have everything in order to get, all of a sudden, a whole pile of new rental investment. The more you do, the more you're going to get.

**Mr Curling:** Do you agree with the government to sell off the non-profit housing?

**Mr Lampert:** I'm not privy to those discussions. That's not really what I was writing my report about. My report was about stimulating new rental investors.

**Mr Curling:** That's right, and this is what happened. You're creating a demand. You're trying to chase those people out. I think this situation here is saying, "There are people who are paying too little for all these wonderful places they have and we have to chase these people out." Some of them are saying they're paying too little of their income in rental for these units, and they are almost creating a market for that. Some of the landlords have applauded that they should be selling off those non-profits because people are paying too little and the government is subsidizing them, subsidies that should really come to them.

Do you believe that shelter allowance is more effective? Do you also believe that the money that will be given as shelter allowance will increase if it moves to the shelter allowance aspect of things?

**Mr Lampert:** I'm a long-time supporter of a shelter allowance approach as opposed to non-profit. I believe it's a much more cost-effective way to house lower-income people within the existing stock, where they already are living and where their main problem is the fact that they can't afford the rent. It's a much cheaper way in the long run, and I've done studies to demonstrate this, to assist these people with the shelter allowance approach than with non-profit. So I'm a supporter of shelter allowances, yes.

**Mr Curling:** I went jumping all over the place because I'm trying to get everything in.

**Mr Lampert:** I'm familiar with that; I had to do it with my presentation.

**Mr Curling:** It's a precious commodity. Even the book here, I couldn't get.

Maintenance: The condition of the stock now, they said, is that about \$10 billion worth of repairs are needed to bring it up to scratch. Landlords are asking for more money now to do this. In your discussions, did they say what they have done with the money they got over the years, part of what they were getting through their guideline increases to maintain those buildings? In your consultations, did they say why they did not maintain those buildings? As you want a guarantee that govern-



ment will not to change these laws forever, did they say they would guarantee that if they get some money now they will maintain those buildings to the standards that the purchase of those renters got?

**Mr Lampert:** My mandate was to look at what was required to stimulate new rental investment. If you want me to speculate on the condition of the existing stock, the condition of the existing stock is deteriorating, absolutely. Landlords in many cases are not getting the returns on investment that they are looking for. I tried to say that earlier. Rental housing is an investment. You've got 8.2% on a 30-year government bond. Rental housing is a long-term investment. You've got to make more money than 8.2% or you're not going to be in rental housing.

Yes, they are seeking those returns. Yes, the stock has deteriorated, and partly that's due to lack of maintenance. The best way to ensure that the stock becomes better maintained is to make them compete. Right now they don't have to compete on the market, certainly in Toronto; they have an almost guaranteed clientele because the vacancy rate is so low. People don't have an option.

My report was commissioned to identify ways to stimulate new supplies so we get the vacancy rates back to a situation where landlords have to compete again. That's the best way to ensure that people are going to maintain their stock and that we have a freely operating market.

**Mr Curling:** I've got about a minute and I want to put two questions in quickly. First, I don't know if you'll admit that your report is flawed because you did not look at the other people, like tenants and tenants' advocates. Also, the government approach to this should be having a comprehensive housing policy more than attacking one aspect of the situation, rent control; to look at a comprehensive housing strategy and policy to address this kind of issue. What are your comments on those two points?

**Mr Lampert:** First, no, I don't admit that my report is flawed. My report was to identify ways to stimulate new rental investment, and that's what the report does.

I would agree with your second point. It would be very desirable to have a comprehensive rental housing policy, where we start looking at ways to ensure that everyone is able to afford adequate accommodation. In my view, a shelter allowance approach is the way to do that. The government has, of course, a full agenda. I'm not part of the government; I'm an independent consultant. My preference would have been to have written a much bigger report dealing with all the issues.

**Mr Curling:** So you recommended that?  
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**The Chair:** Mr Marchese, Mr Curling only used about a minute of your time.

**Mr Rosario Marchese (Fort York):** I'm going to take it away from you. Mr Lampert, it's good to have you. You provoked a few more questions than I had already in mind, so I'll try to keep them very short so we can get through them all. You said vacancy is going down, generally speaking, across Ontario. Is that correct, or just Toronto or some other big centres like that?

**Mr Lampert:** Mainly the problem is in Toronto. Other areas have a much higher vacancy situation. With no new

supply, they will come down too, but the urgent need is in Toronto.

**Mr Marchese:** Of course. It was important, because in some other cities people talk about having high vacancy rates, that it's underestimated, they argue, for a variety of reasons, and that's likely to remain for some time. I disagree with that. I think it's going to come down in a couple of years, no doubt.

**Mr Lampert:** If you don't get new investment, gradually it will drift down.

**Mr Marchese:** And I don't see new investment happening.

**Mr Lampert:** Not unless we make some changes.

**Mr Marchese:** The other point you mentioned is the filter-down kind of approach. I'm not entirely convinced; in fact I don't think it's going to happen. You pointed to some evidence in the past where the filtering-down process worked, when people went into condos, you said. We've had a glut of condos in the market already. With the elimination of the Rental Housing Protection Act, we're likely to see more of that on the market. I'm assuming many are in the condo market at the moment and they could enter into it because there are many vacancies. I am not convinced that there's a rational reason why the person who has a high income in an existing rental accommodation is going to say, "I was waiting for a new building to be built; I want to go there," and that they will all of a sudden move to the other apartment and leave room for the other poor folks to jump right in. I just don't see it.

**Mr Lampert:** In the early 1990s we had over 20,000 new condominium units, new luxury condominium units at very high rents, a glut on the market. They were actually unoccupied. It was over 20,000 units unoccupied. They were at rents of \$1,500-plus, and they all became occupied at those kinds of rents. If you want a demonstration that people will leave a relatively lower-cost type of housing and move to a higher-cost type of housing, just look at the general move-up market on the ownership side. People, as their circumstances change, find their current accommodation unacceptable: It's too small, it's maybe getting a little shabby, they'd like to move to something else and they can afford it, and they do that. It happens throughout the housing market, not just in rental but in ownership as well.

**Mr Marchese:** Mr Lampert, it's just going to be a matter of opinion between you and me. I'll disagree.

**Mr Lampert:** It's a matter of fact.

**Mr Marchese:** I realize you present it as fact, and that's where I have a problem, with the fact. It remains to be seen whether your facts will indeed be factual down the line. I just don't see it. This government is likely to carry through with your proposals, so we'll see in a couple of years, and maybe we can have another discussion then.

**Mr Lampert:** I look forward to it.

**Mr Marchese:** Do you think the government should conduct an impact study before moving ahead with these changes?

**Mr Lampert:** No. I think the changes are really urgent. I think we have a serious problem looming, particularly in Toronto, where we don't have any new



rental supply coming on. It's very urgent that we look at this issue and get it settled and provide the kind of basis that's needed for people to make investment decisions.

**Mr Marchese:** So we don't need an impact study. We know, from factual information you're providing, that it's urgent to be done.

**Mr Lampert:** It's absolutely urgent to be done. We could study this thing till the cows come home and I suspect we still wouldn't convince some people that it's the best way to go. But in my view, and it's what I recommended in the report, it certainly is the way to go.

**Mr Marchese:** Your report alludes to the fact that rents will have to increase in order to attract new investment, correct?

**Mr Lampert:** In some parts of the market. No. The higher end of the market in Toronto now is not at its legal maximum, so they're not going to be increasing much. What's going to happen is that you're going to build at the high end of the market; you're going to replace some of those condominiums that were built during the glut and were rented out as a desperation measure. They're gradually eroding from the market now. You're going to replace some of those and you're going to pull more people out of the existing rental stock.

**Mr Marchese:** So we're back to the trickle-down almost.

**Mr Lampert:** Yes.

**Mr Marchese:** How will the low-income people move into that rental accommodation which is already probably very costly to get into?

**Mr Lampert:** Because all the way down the line you end up with people moving out of a \$900-a-month unit into a \$1,200-a-month new unit. That frees up the \$900-a-month unit. The landlord looks around and somebody from a different unit moves into that. It creates a vacancy chain. No one can predict exactly where that will end up, but the general trend in a rental market is, if you don't have a glut when you build new rental accommodation, you don't end up with a huge glut in one particular part of the market and no effect on the other. If you build at the high end, the impacts will flow through to all of them.

**Mr Marchese:** I disagree with you, Mr Lampert, no doubt about that. I'm reading a line that is beautiful, and this is what I believe: "The end of the down-filtering chain is the slum" really is what we're getting at. In the 1970s and the 1980s, there were a lot of provincial and federal government programs, assistance, for developers to build. They probably would not have done so if it were not for all those programs: the assisted rental program, the Canada rental supply plan, the Canada-Ontario rental supply program, the Ontario rental construction loans program. You know them all, I suspect.

**Mr Lampert:** Yes.

**Mr Marchese:** That was bridge financing probably, as it might be called, for some of those landlords. Would you not consider that as a subsidy to the landlord?

**Mr Lampert:** Oh, absolutely, and I deplore them. I was never a fan of those types of programs. I would much rather see the rental market put on a sound financial footing where you have a regulatory environment and a taxation environment that allows them to treat it as a

proper investment rather than have to provide subsidies. I recommended no subsidies in my report. I am wanting to get a solid investment environment for new rental.

**Mr Marchese:** Mr Lampert, the reason why they were building is because of those programs and the reason why they are not building is the absence of those assisted programs. Would you say that's fair?

**Mr Lampert:** The programs helped them get over the gap between market rent and economic rent, which is still present, and also the fact that the regulatory environment was not conducive. So they were a kind of subsidy to help them get over that gap and encourage them to build. Would they have built without it? No, they wouldn't have built so many without them, but as I said, I've never been a fan of those programs.

**Mr Marchese:** In fact, as you state in your report, we have seen a steady decline of rental accommodation over the last many years.

**Mr Lampert:** Because of the problems with the gap between what they can get and what it costs them due to the taxation environment and also the regulatory environment.

**Mr Marchese:** I understand. You commented and didn't comment on whether or not you supported non-profit housing, but by speaking to the whole notion of shelter allowance you're really speaking against non-profit housing, because this government says: "We support shelter allowances. We don't support government involvement through non-profit and cooperative housing." So is it fair to say you don't support government involvement in non-profit and cooperative housing?

**Mr Lampert:** I've always favoured a shelter allowance type of approach for the vast majority of tenants with affordability problems. There's certainly a role for non-profit housing. There are many people with special needs: elderly, handicapped. Certainly in those kinds of cases I believe there is a role for non-profit. But to date the balance has been so weighted in favour of non-profit until recently. My view is the shelter allowance approach would be a much more cost-effective way to provide that accommodation, for everyone too. Let me just say —

**Mr Marchese:** Mr Lampert, I'm running out of time. I want to tell you this. Let me make a statement and then ask one final question or two if I can sneak it in. I'm not a big fan of shelter allowance.

**Mr Lampert:** I gather.

**Mr Marchese:** I am a great supporter of government building non-profit and cooperative housing because it builds according to needs, which the private sector does not take into account. It does not take into account the needs of people with disabilities, the needs of HIV people, the needs of seniors, the needs of sometimes families with their own supportive types of needs. That is why I feel we need to be in it. I don't think shelter allowances build housing. They don't build according to needs and they don't stimulate the economy. We've been stimulating the economy through the building.

One final question, if I can, before my one minute is up. Do you feel the government should announce its shelter allowance program as part of a tenant protection program?



**Mr Lampert:** My long-standing recommendation to all governments is that a shelter allowance approach is the best, most cost-effective way to assist —

**Mr Marchese:** Should they announce it so we know what they're talking about?

**Mr Lampert:** I don't have all of the pressures that a government has.

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**Mr Marchese:** What do you think?

**Mr Lampert:** My preference would be to have a shelter allowance program in place. That's always been my preference, whether the government has been Conservative, NDP or Liberal.

**Mr Marchese:** I understand. It's a different question. I was asking whether they should announce it.

But in terms of the Rental Housing Protection Act, do you think it's going to take away rental accommodation that we have when they convert to condos, by and large? The condo association says they're likely to convert, and they're very worried. Won't that take away rental accommodation?

**Mr Lampert:** There will be some landlords who will want to convert. Not all landlords want to convert. Many existing rental buildings are in fact condominiumized already, so they have the option to condominiumize if they thought there was a market there. There are certainly going to be some conversions, but you have to look at it two ways. One is it's a conversion of a rental building into a condominium, but the other way to look at it is that it's provision of relatively low-cost ownership opportunities which are not currently in the market. These are not going to be luxury condominiums like we're used to seeing being built lately. These are going to be relatively low-cost, affordable ownership opportunities. To that extent, it's going to actually reduce rental demand, because there aren't those sorts of affordable ownership opportunities for many tenants now.

**Mr Bart Maves (Niagara Falls):** Thank you, Mr Lampert, for coming today and making your presentation. Just to get it out of the way, in your report you have basically said what your mandate was. It was to examine the economics of private rental investment and to identify measures which the government could take to encourage the construction of new rental housing. So you didn't speak with ice cream or shoe salesmen; you spoke to people who build rental housing.

**Mr Lampert:** Not many ice cream salesmen, no. It was the summer when I wrote it, so there were one or two.

**Mr Maves:** Mr Marchese and the members of the Liberal caucus have always been quick to point out that your report says removing or relaxing rent controls won't do it. And I flip the page and I pull out a list of things you have for overcoming the gap: development charges and GST, some of the things you've talked about today. You say if we don't give them all of these things, they won't build. Is it an all-or-nothing proposition?

**Mr Lampert:** Absolutely not. It's a package. The more you do in terms of relaxing the regulations, improving the cost environment and taxation, property taxes particularly, the more rental accommodation you're going to get built. It's not an all-or-nothing situation. This is a

very key part. If you do the other and don't change this, you'll get less. If you do this and don't change the taxes, you'll get less than you would have if you'd done them all.

**Mr Maves:** So incrementally with each change you'll get more construction.

**Mr Lampert:** Incrementally more. That's right.

**Mr Maves:** I had a gentleman in Hamilton tell me about a person from West Virginia who was in the rental apartment business, and he was interested in building in Ontario. The gentleman from Hamilton shipped him the acts governing rent controls and landlord and tenant and so on in Ontario, and the gentleman from West Virginia went to Quebec and built. How much of a psychological factor for landlords is the whole gamut of regulation and legislation surrounding rent control?

**Mr Lampert:** Huge, huge, huge impact. Landlords are frightened of anything that controls their potential return. They're happy to work in a marketplace, but many landlords see government regulation as capricious, subject to change every time the government might change, and that's worrying to them. That's why I was trying to recommend and I like the system that is being proposed, because I think it's fair to both sides. It's not total decontrol, as the industry has been asking for. I think it's in the long-term interests of the industry to have some measure of control, such as was recommended in my report and is part of your package.

**Mr Maves:** Can I explore that? Your reason for that is not necessarily that you don't believe from an economics point of view that decontrol doesn't work, but you believe from a politics point of view that if we move to decontrol, in the future another government would change it and that would make an unstable environment?

**Mr Lampert:** That's right. Inevitably there are cycles. The vacancy rates go up and they go down. At some future time, as there was in 1975, there will be a tight market and there will be a situation where landlords could have 20%, 30%, 40% increases. The political pressure under those kinds of situations is irresistible to do something about that problem. I think this type of package would eliminate that type of pressure and allow the market to operate still quite freely.

**Mr Maves:** Another problem we have: I've seen some numbers that in the Toronto market over 30% of renters have sufficiently high incomes that they could easily be homeowners. If we get wealthy renters out of that market and into the home ownership market, what kind of effect is that going to have on the supply?

**Mr Lampert:** Anything you do to either increase supply or reduce demand for rental accommodation is positive for the overall vacancy situation and positive for the market.

**Mr Maves:** There's an article in the *Globe and Mail* that says sales of existing homes in Toronto are up 5% from last month. It was cited that renewed uncertainty about proposed provincial rent control legislation is partly responsible for the push by first-time home buyers into the market.

**Mr Lampert:** I'm sure that's a factor.

**Mr Maves:** I guess if I'm a high income earner and I've got a rent-controlled unit, why move, but if rent



controls aren't available to me in that unit, the ownership market looks better for me?

**Mr Lampert:** Yes, it does. It's a factor in some potential owners' minds. I'm not sure it would be a huge factor that would prevent many people from purchasing a property. I think most people who can afford to purchase would like to purchase a home because it's a good investment in the long run.

**Mr Maves:** If we don't solve this problem right now, if we don't act soon on something, what's likely to be the result, especially in the Toronto area?

**Mr Lampert:** You'll have a very significant problem. You're facing a very significant problem, whether you act or not, for the next year or so because it takes that long to build new rental accommodation, but if this is allowed to drag on, a situation with no new investment, you're going to face ever tighter rental markets and real difficulties for many tenants, particularly lower-income tenants. That's the people who will fall out the bottom most. In a very, very tight rental market, it's the low-income tenants who are penalized the most. So it's very important to get new supply.

**Mr Maves:** I've had landlords in my riding and we've had landlords here who have complained that the previous government's investment in housing cost them tenants and caused them not to invest in the market. Can you tell me what the cost of their programs was to the private sector market?

**Mr Lampert:** Certainly the non-profit program was in competition with private landlords and also in some areas, certainly areas with high vacancies, would have been detrimental to the operations of private landlords. As I said, I am not a fan of a large-scale non-profit housing program. I think they were a very, very costly way to provide accommodation for needy and market tenants. I think a much more cost-effective way would be to get the private rental market working and provide a shelter allowance type of approach for those who are on low income.

**Mr Maves:** My final question: Some builders have come and said, "This isn't enough to make us build." I don't know if they're taking a bargaining position there and they want more and more or where they're coming from there. Do you believe this proposal will help to create growth, increase the vacancy rate and stabilize rents?

**Mr Lampert:** Absolutely. You'll never get all developers saying the same thing. The key thing you have to look at, and it's in my report, is that in Toronto in particular there are a lot of very motivated potential developers. These motivated potential developers are the owners of a significant amount of land, over 100,000 units of apartment land, zoned, ready to go, sitting growing weeds right now. These people want to invest. I've talked to many of them. They've come to me about potential market studies for rental accommodation. They want to invest. If the environment is right and they can see a return, they will invest. There's nothing sacred about rental investment that's different from any other type of investment. They need a return. They're not going to invest unless they get a return. We have motivated potential investors, though, now.

**The Chair:** Mr Wettlaufer, Mr Maves has left you a minute.

**Mr Wettlaufer:** Mr Lampert, welcome to Kitchener.

For the past few weeks we've heard a lot of combative talk, if you will, from the opposition parties, and it reminds me of the old saying: "My mind is already made up. Don't confuse it with facts." We heard that, of course, from Mr Marchese, when you quoted your study. There's been a lot of talk about the Russell report and its publication in the Globe and Mail on July 2 talking about a 10% average return on investment over the last 10 years. I notice in your report there is nothing like a 10% average return. The Russell report used 24 buildings as a sample. I wonder if you could comment on the validity of such a sample — not on the report, but on the sample.

**1200**  
**Mr Lampert:** Yes. The sample is much too small to draw serious conclusions from. You also have to recognize that they're talking about the existing rental market, existing buildings. They're not talking about building a new project and what the returns would be expected to be from that project. What we need to do is get new built.

The returns on existing rental properties over the last year or two have improved, and part of the improvement is due to the potential to relax the regulatory environment they're facing. But the key issue is to get new private rental building and not, as is in the Russell index, monitoring the past, because those are in the past.

**Mr Marchese:** What's the return?

**The Chair:** Mr Marchese, this is not your turn.

Thank you, Mr Lampert. We appreciate your being here this morning and giving us your input.

#### HIGHLAND PINES CAMPGROUND PINE MEADOWS RETIREMENT COMMUNITY

**The Chair:** Our next presenters are from the Pine Meadows Retirement Community, Don Vallery, president, and Janet Vallery, vice-president of marketing. Good afternoon. Welcome to our committee.

**Mr Don Vallery:** Thank you very much on behalf of my wife and myself. We have two issues to discuss with the committee today, first with Highland Pines Campground and second with Pine Meadows Retirement Community. We own and operate both of them.

Highland Pines Campground is on Lake Belwood, about 30 miles from here, 175 acres, 475 sites. We have about 400 seasonals and about 75 transient sites. We've been in business for 30 years.

The problems we have with the current rent control are in section 3(a) as it is in our presentation to you, where campgrounds are exempt from the Landlord and Tenant Act and rent control. Unfortunately the following paragraph stipulates that rent control and the Landlord and Tenant Act could apply if tenancy goes on longer than four months. I would show you the campground directory we have provided to you. If you take a look through there, most campgrounds in Ontario operate between May 1 and the middle to end of October, which is more than four months. I also refer to the Elora Gorge Conservation Area, which is in the Grand River Conservation Author-



ity. If you look on the last page, seasonal camping is May 1 to October 15.

This is a problem for all parks. It doesn't matter whether they're private parks, municipal parks, conservation authorities or any other type of park. That particular clause for campgrounds that are campgrounds, not residences, should be extended to at least six months, if not eliminated altogether.

That's the item we have with the campground. Janet will deal with Pine Meadows.

**Mrs Janet Vallery:** We have a community called Pine Meadows Retirement Community. It's located just outside Fergus. We're four years into our project and we're just over halfway through to completion of it. We build high-quality, energy-efficient homes with full basements for seniors. The tenure of the land there is land-lease. A land-lease community is a distinctive form of home ownership. In the discussions you've focused on rental properties. These are not rental units; these are homes that are owned by the people living in them. In a land-lease situation, the fees they pay are for the lease of the land the home sits on and maintenance items. As a form of home ownership, land-lease is more similar to a condominium situation than it is to an apartment rental type of situation.

The problem we've experienced after four years of operation is that we're starting to come into extra costs that we cannot pass on because we fall under rent control, and there's some risk to the residents in our development in terms of the services they receive. We would like to make six recommendations or suggestions for changes to the legislation.

The first is that any new legislation should recognize land-lease communities as separate entities from apartment buildings. They're a unique situation, a unique form of home ownership and should not be treated in the same way that an apartment building is treated.

The second point we'd like to make is that a land-lease fee is charged for the lease of the land. We believe there should be some form of rent control on this, or alternatively, that you look at the consumer price index, which is a more accurate economic indicator.

Our third point, and this is where we're starting to experience problems that many other land-lease communities and mobile home park communities are experiencing: We believe that maintenance should be a pass-through expense to the homeowner.

There are three types of maintenance that can occur in a land-lease or mobile home park. There are the normal community services which are maintaining the roads, the water, sewers — in our case we have three sewage treatment plants that we operate and maintain — the lighting, the maintenance of the common areas. In normal situations this is handled by a municipality, and a municipality would be allowed to pass on costs for this through their taxation. Under rent control we cannot pass on these costs.

The second kind of maintenance activity is recreation and lifestyle amenities. These can be extensive or they can be a very small portion, depending on what amenities are offered. In our situation, we were mandated in our development agreements with our township to build an

extensive recreation facility. We completed that in December 1995. The cost to us as the developers was \$1 million. The recreation facility has been operated now for six or seven months. Under rent control we cannot recover the costs to operate that building; we cannot recover the costs to operate the hydro, the heating, the water, the cleaning of the facility that our residents are enjoying.

Another aspect that falls under maintenance in a community could be personal services such as the mowing of individual homeowners' lawns and removing snow from their driveways. We do not feel that it is appropriate for government regulations to control what should be a relationship between a provider and the person requiring the service.

The maintenance aspect is a serious problem. In our community we have a good relationship with our residents. We have a very high quality development and very high standards of maintenance that our residents enjoy. Under the legislation, if it doesn't change, because we're not recovering our costs we'll be forced into a situation where we will have to offer a declining level of service. That is not in the best interests of ourselves or our residents.

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Another problem arises because we've developed in phases and people have come in at different times. We didn't charge for the recreation building when it wasn't built. Earlier residents may be paying only \$116 for maintenance, other residents are paying \$129 and yet others are paying \$149, so we have a disparity within what individual residents are paying. It's not fair to them that they all have equal services and equal recreation facilities and pay different rates for them. We'd like to be able to adjust it so that everybody pays the same.

We believe strongly that it be mandated in the new legislation that there be a maintenance committee formed of homeowners who meet with the land owner on a monthly basis. The purpose of this is to look at the cost of maintenance and appropriate levels of service. These are aspects that don't need provincial regulation; they can be worked out between the parties. We've been operating for four years, and for the past four years, even though we were under rent control, we have met with our residents' maintenance committee every single month and have worked out any conflict; we've worked out levels of maintenance and cost of maintenance. This is, I think, a key factor for new legislation.

These communities can be very similar to condominiums, where a set of controls is necessary to protect the integrity of the community and residents' property values. We feel that in the legislation it should be made clear that if there are rules, they should be in the documentation provided to people before they sign an agreement to purchase a home. In this way they know what they're getting into, what's permitted on the property, and they can decide at that time whether this is suitable to them.

In our situation we do not allow fences or sheds because we do all the grass care in the community. Maintenance costs would just soar out of sight if we had to worry about fences and sheds. Also, there's the



aesthetic value. You don't know what a neighbour would do that would be unsightly and unacceptable.

We believe that in a resale, the lease should revert to fair market value. This equalizes the value of all homes in the community and gives all homeowners the same chance of selling their property. During startup, a project will often discount its leases to entice the first buyers to move in. They're pioneers, they're moving into an unknown situation, so it's quite normal to offer them an incentive in terms of a lower lease rate. These tend to be undervalued. We believe the benefit of that low lease rate should remain with people as long as they choose to live in that home, but when they decide to sell, we believe it should be readjusted to fair market value for the new home buyer. This equalizes the value of all leases and makes it easy to sell all the properties.

Under rent control we cannot offer new services because we cannot recover the costs of those services. Our residents would like more cable TV stations. The cost to do that is \$3,500. We're in a situation where we can't recover that cost even though they want this service and they want to pay for it. So any new services that come on which residents and the landlord or land owner agree to should be passed on to the homeowners.

We've attached a grid that compares land-lease communities to condominiums and apartment buildings. It shows clearly that land-lease communities are more similar to condominium units. We've worked very closely with our residents on how costs should be appropriated. We would be glad to offer our community as a model and provide you with our documentation for any new legislation that you might be introducing.

**Mr Curling:** Thank you for your presentation. I'm looking through the extensive stuff you've got here. We have had people in that jurisdiction who have come before us and presented the same case as you said, to separate you in separate legislation.

But I also notice that what you're asking for — is it fair for me to say that some of the things you're asking for, all the additional stuff that you have, you'd like this to be passed on to the tenants? In other words, you want the cable TV attachment and you want the removal of snow and what have you to be part of the rent. Is that so?

**Mr Vallery:** Yes, to separate the land lease — if you look on the first page of our presentation, we have several fees. A monthly fee is, say, \$450; \$278 is land lease. That, we believe, should be still tied to rent control or to a consumer price index, but the maintenance and operation of the project should be a pass-through item.

The cable TV that you asked about, we currently have 19 channels. Quite a few of our residents would like more. We have an in-house station. We do not buy from Rogers or anybody else; we have our own in-house stations. So if our residents want more stations, we can't give them to them because we would be charging over rent control guidelines. So we can't benefit, we can't give them extra services.

**Mr Marchese:** Two quick things, Don and Janet Vallery. On the whole issue of campsites, we believe we have come to some understanding between us that would solve that issue. If the ministry staff could speak to that

very briefly, then I'll have another question with respect to mobile homes.

**Mr Terry Irwin:** Yes. This is the issue that's been raised before and there seems to be an apparent contradiction in the acts between properties for the vacationing and travelling public and a clause that talks about four months' residency in vacationing property. We've heard this before and there is some agreement to look at that time frame.

**Mr Marchese:** I wanted to tell you that.

**Mr Vallery:** Thank you very much. That's very important.

**Mr Marchese:** I think so. The other question has to do with general maintenance and some of the tenants being quite frightened about this clause that speaks about higher costs passed through. We've heard horror stories from some of the tenants. I presume you're good landlords and not bad ones.

**Mr Vallery:** Our homeowners' association is here with us at the present time today and they will be speaking at 5 o'clock. We actually get along very well. We're here together presenting the same points. We have a couple of minor discrepancies that we don't agree on, but the maintenance pass-through we are unanimously together on. That's why we offer our project for the ministry to look at, because we have a system that works.

**Mr Marchese:** One of the problems that people were raising, yesterday in particular, is the incredible disagreements they have between them over everything; the fact that they get the general guideline increases, and at times possibly above-guideline increases, and they don't see that money going in to general repairs, so they see this cost pass-through allowance as an outrage.

**The Chair:** Does anybody have a question? Mr Danford.

**Mr Harry Danford (Hastings-Peterborough):** Thank you for your presentation. We have heard on other occasions about the four months, so it's not something new, but it is important. This is a discussion paper to give you the opportunity to bring it to our attention.

**Mr Vallery:** Yes, thank you.

**Mr Danford:** You mentioned either delete the four months or have it go to six. Do you have a preference?

**Mr Vallery:** Well, the less regulation the better.

**Mr Danford:** So you delete the four months.

**Mr Vallery:** Just delete it, yes.

**Mr Danford:** Okay, because that has been the position I think in some other cases. They've just taken the four months out.

**Mr Vallery:** That's fine. That would be great.

**Mr Danford:** When you look at extra services so that you can pass the charges on, do you do that through a committee and then you work by a majority of the owners?

**Mr Vallery:** We can't do it now at all.

**Mr Danford:** I know, but if you did, how would you do that?

**Mr Vallery:** It would be done on a consensus basis. If it was TV stations, you know, if you can come up with 90% that would agree that the charge would go through — because if you put a new TV channel on the line, everybody gets it. Yes, there would have to be some



consensus set up and I think with our homeowners' association we could set that consensus on a reasonable basis.

We do everybody's grass and snow. This is the killer. We don't know how much snow we're going to have to plow. We don't know how much grass we're going to have to cut. That is the killer on the maintenance fees. That is the huge item that's way out of whack and we've had to provide all these new recreation facilities under our development agreements, and we can't recover those costs. We spent \$1 million on this building and we can't recover it. It's no incentive to anybody to ever get into this stuff. We started off, we could recover it. We were fashioned after two other projects that were operating where maintenance was a pass-through. That's how we started off and that's how we got into this. I'd have never started with this nonsense.

**The Chair:** Thank you very much, folks. We appreciate your input this afternoon.

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#### WATERLOO REGION HOUSING COALITION

**The Chair:** Our next presenter is the Waterloo Region Housing Coalition, represented by Catherine Heal, Christine Wilson-Whitehouse and Bluma Teram. Good afternoon. Welcome to our committee. The floor is yours.

**Mrs Catherine Heal:** Good afternoon. On behalf of the Waterloo Region Housing Coalition, I would like to thank this committee for this opportunity to express our opinions today. My name is Catherine Heal. Beside me is Bluma Teram and that lady over there on the far end is Christine Wilson-Whitehouse. We are all representatives of the Waterloo Region Housing Coalition.

Our coalition is composed of non-profit housing providers, co-op housing providers, support service providers and tenants as well. We are here today to represent the vulnerable tenants of this province, meaning low-income or moderate-income households, who spend much more than 30% of their gross income on rent. Five years ago, over 4,000 households in Kitchener alone fell into that category. That was five years ago, and we expect that figure to be much higher today. We are also speaking for the disadvantaged, namely, people with disabilities, the elderly, people with language barriers and other vulnerable tenants.

We know that the vacancy rate is high, and yet a large percentage of people we deal with every day are not able to find decent affordable housing. Like the majority of the speakers you have been listening to in the past month, we don't think the proposed change will solve the problem. Instead, the proposed change will harm those people who are already struggling to survive. It will create higher vacancies if landlords attempt to raise rents, but it will not create an incentive to build.

Instead, the proposed change is designed to accomplish six goals. They are listed on page 1 of this discussion paper that was distributed to different parties. All of the goals will benefit tenants and landlords if implemented in the way that indeed adheres to the goals. Our concern is that the proposed legislation will not accomplish those goals; it will only compound the problem. I will discuss each goal briefly.

Goal number one: Protect tenants from unfair or double-digit rent increases, evictions and harassment and provide strong security of tenure. The proposed legislation will only protect tenants who will never need to move. But may I bring to your attention that some tenants simply need to move for various reasons, and that need often doesn't come with an increase in income. From our observation, as a matter of fact, many people need to move because their situation, especially their financial situation, has deteriorated.

To give you a few examples, a senior widower might need to move to a smaller, cheaper apartment. Without a spouse, he's left with half the pension. There are abused women and children looking for a safe home. There are people with medical problems wanting to be closer to their families or medical facilities. There are people wanting to be closer to where they work. These are legitimate needs to move and are out of their control, and these needs don't come with an increase in income. The proposed legislation, we would like to point out, will not protect these people from rent increases. We also worry that the proposed legislation will encourage, not prevent, evictions and harassment.

The second goal: Focus protection on tenants rather than on units. The intent of the proposed legislation is to enable tenants to negotiate with their landlords about rent and maintenance issues. It puts the onus on the tenant to initiate a negotiation process, but not everyone is in a position to negotiate. We are concerned about the vulnerable tenants who are not well equipped to negotiate. Those who don't have the financial resources, the knowhow, the transportation, and those who are simply not comfortable with negotiation will never negotiate with their landlords and their concerns will never be heard. They need the protection of regulations. Don't leave it to negotiation.

The third goal: Create a better climate for investment in maintenance and new construction, therefore creating jobs. Many of us will be more than happy to see that happen, but eliminating rent control alone will not make that happen. The rents that will encourage development and cover maintenance costs will prompt the well-to-do tenants to buy homes, and that's great for the economy, but for those who are already struggling to make ends meet, those rents will force them to look for cheaper homes, possibly substandard homes, and we will see even more low-income households looking for affordable housing, while more and more units will sit vacant. But we won't see more construction starts.

Please consider this objective very carefully. Remember that a number of landlords and developers have pointed out to you that eliminating rent control will not encourage them to build.

The fourth goal: Improve enforcement of property maintenance standards. We welcome the proposed improvement in this area, if the proposal is enacted as stated and the cost of keeping properties to standards does not translate into unaffordable rent. We would like to caution this committee that the proposed change only deals with the symptom, not the root of the problem, and there is a potential for both the landlords and the tenants to suffer under the proposed legislation in this respect.



The root of the problem is economic. The current market rent is lower than what a landlord needs to charge to cover maintenance costs and to make a profit, especially when they have to carry a high mortgage.

If the requirement to upgrade properties is translated into higher rents, tenants will be forced to move to slums, while the repairs won't get done. It's a lose-lose situation for both parties. Streamlining the municipal enforcement process will help to make it easier for municipalities to convict those irresponsible landlords, but those changes in procedure alone won't make a significant improvement in that area.

The fifth goal: Provide a faster, more accessible system to resolve disputes between landlords and tenants. We support a faster and a more effective mechanism to resolve disputes, but it must remain fair, financially affordable and geographically accessible to all tenants. The judicial system must be maintained to deal with more serious issues. We support the inclusion of a fast-track eviction process for care homes in situations where the individual is dangerous to themselves or others. To ensure the safety of such tenants and others, we recommend that supportive housing providers be equipped with a process for immediate, temporary relocation of the tenants and that a full landlord and tenant hearing be sped up, allowing for an accelerated eviction process.

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The discussion paper does not provide details in many areas, such as the accessibility and the cost of the proposed system to tenants in particular. How much power would this tribunal have? Who will be on the tribunal and how would the members be selected? We ask that a full hearing on any changes to the current dispute system be conducted. The current system may just need some enhancement to make it faster. We don't believe that the current system has serious problems.

The last goal: Deliver a more cost-effective administration with less red tape. Like all taxpayers, we all welcome this recommendation or this goal, provided that it does not compromise fairness, accessibility for landlords and tenants, and adheres to the principle of tenant protection, which is the stated focus of the proposed legislation.

To conclude briefly, it takes much more than a change in regulation to solve all these problems. The proposed legislation clearly will not accomplish goals number one, two and three, and it will not make a significant improvement in goal number four. We regret that we are not able to comment much on goals number five and six because of the lack of information.

We caution against rushing into new legislation that will affect 37% of the population in this province. That is how many people are renters in this province — 37%. More time and a more widespread consultation are needed. Encourage tenants in your riding to tell you what they need. Don't change the regulation to one that is ineffective and harmful to low-income and moderate-income households. The effects of the proposed legislation will be even more devastating to those who are disadvantaged, the people with disabilities, the elderly and other vulnerable tenants. We as a society have an obligation to protect vulnerable tenants. I thank you for

your patience. I would also like to point out that there are other coalition members present today and they're mostly people who are sitting in the front row in the audience. I welcome any questions.

**The Chair:** Thank you. We've got about two minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** I have about four questions, if I can. Thank you for the presentation. Did you read this — you must have read this, of course, very well?

**Mrs Heal:** Yes, we did.

**Mr Marchese:** Were you here for Mr Lampert's presentation this morning? Some of you were? He said it was a fair package, both to the tenants and to the landlords. He felt we needed to do this. Do you see anything in here for tenants or anything that you think is fair for tenants? As quick as you can.

**Mrs Christine Wilson-Whitehouse:** I would suggest that tenants who have all the advantages will move quite easily in this system that's being proposed. They'll have the money to rent the units that they want. They'll be able to move when they want. They'll be able to negotiate. It will be a system that will be comfortable for those with all the advantages already. We suggest further that those people would be more inclined to buy homes.

**Mr Marchese:** Thank you. There's a lot more that could be said, I know, but there is nothing here for tenants. It's all focused towards the landlord, by and large. That's my reading of this report, and most tenant groups have been saying as much.

In terms of the trickle-down theory — you touched on it as well just now and in your report you talked about it — Mr Lampert came here this morning and he says there's a trickle-down theory. As you build more units at the high end, then those other people in buildings will move out to those places — even though it will cost a couple of hundred dollars more — and that will leave room for others to get into the rental accommodation. I don't think that's going to happen. I think it will create a problem, and you stated as much on page 4 when you say, "renters who would be able to pay such high rent could then opt to become home owners." That's my feeling of what would happen. "This will create vacancy at the high end of the market and no stimulus to build new rental housing." I just wanted to agree with that particular comment that you made.

In terms of what it means to low-income tenants, we are very concerned about the implications of this report because what's available is at the high end —

**The Chair:** Thank you, Mr Marchese. Mrs Ross.

**Mrs Lillian Ross (Hamilton West):** Mr Marchese and I have a fundamental disagreement on this process.

**Mr Marchese:** Profound.

**Mrs Ross:** Yes. If you look at pretty much every single commodity that is supplied to people anywhere, if there's greater competition — for example, take clothing — if there's greater competition in clothing, what happens is the price tends to go down. If you look at housing, the same thing. We talk about private housing as opposed to rental housing. I used to be in real estate so I know that when people buy new houses they move from a previous house which someone else down the line



buys. The same thing in cars. When there's greater competition prices tend to come down and it's easier to find accommodation, clothing, cars, whatever you want.

I'd like you to tell me why you think that if higher-end accommodation is built and people move out of accommodation into that, it frees up their unit, somebody from another unit moves up, why you think that won't happen.

**Mrs Wilson-Whitehouse:** First, I must point out that housing is different from cars and clothing. Housing is an essential need. Everybody needs it. Those who have it have already the advantage because it's not a commodity you can choose. You must have it. There is some choice there.

We do hear from landlords pretty consistently that they're unhappy with the business of being a landlord. They're not able to make enough money. We're concerned that even the landlords who end up with the lower end of market units are still not going to be able to make enough profit to keep them in the business; they're going to have to sacrifice even further the condition of the units. They've been saying, "We're not happy with the current system," so the competition is going to be to increase the rents. I wonder what's going to happen to those landlords who are going to be, might I say, stuck with the lower end of market rents.

**The Chair:** Mr Sergio.

**Ms Bluma Teram:** Could I add to that?

**The Chair:** Unfortunately, we're stuck with some very tight time frames and we have to be quite stringent on them.

**Mr Mario Sergio (Yorkview):** Okay. Thank you very much. I have —

**The Chair:** Unless Mr Sergio wants to give you his time.

**Mr Sergio:** Do you want to, quickly? Quickly, so I can get my question in too?

**Ms Teram:** I just wanted to say that I think the argument is fundamentally flawed, and one of the reasons is the issue of supply and demand. There's high demand; there's very low supply.

**The Chair:** Okay.

*Interjection.*

**Mr Sergio:** Uh, uh, uh. Let's be fair now. I won't have many questions, but let me read you a quote from someone from Lindsay while we were in Peterborough. She said, quoting Mr Harris prior to the election: "We want to bring in a rent control program that will truly protect tenants and give them lower rents. We will replace nothing until we have a superior plan in place proven to work better." From your presentation, do you think the proposed legislation is superior to what we have now in protecting tenants?

**Mrs Heal:** No, we don't think so. In fact, we don't see any replacement or policies that will mean a higher supply of rental housing. I know the stated intent of this proposal —

**Mr Sergio:** Are you telling the government to go back to the drawing board and get something better instead of pushing this legislation through?

**Mrs Heal:** Yes.

**The Chair:** Thank you, ladies. We do appreciate your input here this afternoon.

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## WATERLOO REGION COMMUNITY LEGAL SERVICES

**The Chair:** The next presenter represents Waterloo Region Community Legal Services, Larry Skoog, staff lawyer. Good afternoon, sir. Welcome to our committee. The floor is yours, sir.

**Mr Larry Skoog:** Thank you very much. Although my written submission talks about affordability, I may talk more about dispute resolution issues. As a lawyer I probably don't have much knowledge of financial matters, so I'll stick to other issues. But I wish to support the previous speakers.

Our clinic acts for low-income people in this region. We're mandated to do so. We are scared about some of the proposals, about the impact it may have on our low-income citizens. There is a problem with affordability for low-income citizens in this region in relation to apartments. Also, there was, when we had active not-for-profit housing building going on, competition for that and it lowered the price and it lowered the rents in the private market. Competition did work. When not-for-profit housing was being built, it kept rents down in the private sector. So there's where competition did work.

No doubt there will be some building here, and I have some newspaper quotes on my paper and it refers to a Mr Hallman, who's the major builder in this community. He indicated that while he was happy with some of the changes in the legislation — it's at the back under "Renters Need Not Fear, Says Landlord" — he forecasted, admittedly he said, a minor rise in rents from \$600 to \$625, 4%. For some people that would be difficult.

Let's look at what he said. He said: "Hallman also disputes Leach's belief that the proposed changes will result in the construction of as many as 20,000 new rental units in the next few years, since the private sector has had a virtual freeze on building new rental space. Not in this area it won't, because people won't pay \$900 a month in rent. That's what we need to build a new apartment and that's why we have a foundation just sitting in Waterloo."

Somebody like me might benefit from this. I guess what I fear is my low-income clientele won't benefit. We're a relatively prosperous area in this region, but there is an underclass that's not really doing well with this new economy and, therefore, they're having difficulties with many things, and one is affordability in housing. What we've seen since the past year is not too many people going up because a lot of people on social assistance have had cuts and they've been forced to move down. So it's been the opposite effect.

But as I say, there may be some percolation in the future, but it would take a long time, and that's what we're concerned with. The vacancy rates are declining. In the mid-1990s there was up to about 5% or 6%, but now we're seeing the decline down to 2.4%, and I think it's below 2% the last thing I heard. Right now, if you took a snapshot picture in 1995, there was probably a proper vacancy rate and proper price range for most one- or two-bedrooms, but the trend is going the other way.



I just wanted to bring a point from Mr Hallman's report. Also, I've got a newspaper report about — I don't know, I guess I've got nothing else to do on a Saturday morning, but I was reading about the BC election, and on May 9 it says, "Tenants Fear Repeal of Law Curbing Rents." I'm sorry about the small print. That's the best I could do. The copy I made is all — my secretary had to straighten it out. It said in this: "Few new rental units were being built in Vancouver even before the legislation took effect. On average, 484 units were built annually in the five years before 1994. In the last two years, the average was 449." So you've got a hot rental market and the builders aren't building.

Now, admittedly though — and this is something too: "Over the past 12 years — including 10 years without the rent protection law — " because Social Credit didn't have it "the average rent increase has been almost identical to the rate of inflation." So there was no problem with price range in BC; it was all the people coming into BC, but you weren't getting the building.

We've got our problems with vacancy decontrol. You've heard that before, but I think what I want to raise is, we are a university community, north of here in Waterloo, two universities. The students, with the co-op program, move a heck of a lot, so decontrol will matter quite a bit. This is one market where I say perhaps with the depressed market locally, we may not see the increases of rent you've seen in Toronto and Ottawa, but here's an area, you've got university students, all they want to do is live close to the university. So you've got a nice middle-class market. What I fear is that you're going to see a real increase for student housing price-wise with this, because there's a market there and they can pay it in the short term. It's going to cause some impact with the higher tuition rates and everything, but I think there's a real problem here with regard to student housing, and that's where we're going to see some big increases.

Generally, we're in favour of the anti-harassment unit. That's fine, if the government wants to create such an organization, but we also think there should be, besides the fines — because the problem is that fines tend to be minimum or they don't go close to the maximum, but civil remedy should also be included, which includes damage actions to a court for landlords' actions. But, as I say, with the anti-harassment unit and also the dispute resolution, you can't do this on the cheap. There's got to be a lot of money being spent for this, because there are going to be a lot of complaints coming to this organization and it's got to be well funded for it to have any credibility.

In regard to rent control, as I say on page 6, the discrimination I think on tax issues should be looked at. Governments control taxes, all levels of government. Those tax discrimination issues should be looked at first. Get that settled and then go to rent control and look at that.

I guess it was up at city hall, and I hope I'm not misleading — I'm reading here "residential development charge," and it's as of 1996. It says: "Single dwelling, per dwelling unit" — like for full services — "\$4,940," but then you have apartment per dwelling unit, it's half of that, \$2,655. There it shows the discrimination that

you have per dwelling unit versus single-family residences.

We are happy that the government is trying to enhance property standards, but again, as you must note, the municipalities have been cutting back slightly in property standards. Right now, we find in our community that tenants have to write a letter first to the landlord before property standards will do an inspection. They're trying to say, "You try to solve it first with your landlord and then we'll come in." Also, because of the heavy caseload that they have, the tenants have to go and always ask them to come back if the landlords didn't do the work. It's all complaint-driven. So fine, we like property standards and good strong property standards are necessary, but we must remember it's a complaint-driven mechanism.

What I find many times is the tenants call the clinic and say, "We've got problems with repairs" and call in property standards, one week before they move out. That doesn't help with property standards because they don't know the place exists, and that's what we do. So we're hoping that the government will spend some money and help advise people of property standards and also advise them of the new dispute resolution system.

Also, we have some concerns with the RHPA. We must admit in this jurisdiction, conversions were allowed because the vacancy rates were higher, so conversions were being allowed with conditions. But with the vacancy rate going down, we've got some concerns with the repeal of the RHPA.

What our policy committee at the clinic wanted us to do — what we're concerned with is some of the changes in the dispute resolution system. The example given in the discussion paper, five months to get rid of a troubling tenant, doesn't bear any experience in this local region. We have a very effective court system to terminate tenancies. Most of the applications in court are all landlords. They're going to lose in a cost-effective termination system — and they're getting worried about it — if you go to some sort of tribunal system out there, because in our jurisdiction you can get rid of a rental arrears tenant in 30 to 45 days, not the five months it says in the paper.

Also, the glory about the court system is it's based on a county system. So sure, we're great in Kitchener. We have an L&T court and we have a rent control office, but what if you're stuck up in Stratford or Orangeville? A landlord doesn't want to come down here and file a rental arrears application in Kitchener. I think there should be some local component to the dispute resolution system, and that's what we're afraid we're going to lose.

As I say, one local paralegal — in our area mostly paralegals act for landlords — they checked his files, and the longest it took from notice of termination to writ of possession was seven weeks, not five months. So you're losing a very effective court system and, as our policy committee was saying, if you're going to put everything into a tribunal, you're not going to get less people working at those courts, because it's been added on. Admittedly, they'd like it all to go to a tribunal, but you're not going to get any massive tax savings for the taxpayers, because the government paper quite rightly



points out that they're going to give a strong mandate to this new tribunal. It's going to cost a lot of money to effect this, and that's what the purpose of our paper was, that it can't be done on the cheap. Right now, rent control offices have a heavy caseload with rent rebates and applications to reduce rent, but if you're going to add all the other mechanisms, like all the disputes from landlord and tenant court, it's very unfair on those people to do the same type of work. It's going to cause delays, and I would argue that parties, landlords and tenants, would lose confidence in the system. That's a concern we've got. We want a quick mechanism, whatever you choose, and a quick mechanism means proper staffing and proper funding. There's just no way around it.

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Also, we must submit here, because of the high vacancy rate which other people have mentioned in Kitchener up to now, tenants have moved out if they didn't like the landlord. They moved out, so a lot of the actions in court were in Small Claims Court, which is locally based too in many counties. That's where the business has been. Maybe in Toronto tenants fought because there was a low vacancy rate, so that's where the battles were in landlord and tenant court, in superior court. But in our jurisdiction, there's a lot of stuff going on in Small Claims Court, landlords suing tenants because they moved out without giving proper notice, and then you have tenants going against landlords because they didn't get repairs. They asked for damages.

When you consider the dispute resolution, as it says here, the superior court and the tribunal, a lot of actions are going on in Small Claims Court and that's a very accessible system. People don't have to be represented, and the costs for enforcing orders are quite inexpensive in Small Claims Court, so those are things you have to consider. If you're going to put everything in a tribunal, you're going to need extra staffing to be able to effect this quick determination, because nobody is going to benefit if it takes a long time to do it. Already, as I say, it takes two or three months for a rent rebate application. An application to reduce rent will take two or three months.

If a tenant wants to go to landlord and tenant court individually, you could probably get a repair application heard in about a month's time, so you're losing cost-effectiveness. I'm saying what the previous speakers have said. You should have trained adjudicators hearing this in an open and select process. I've indicated, because we admit that a lot of paralegals are acting for landlords and tenants, you should maintain the agency. You don't have to be a lawyer to provide representation, because if you want cheap representation, to have a monopoly by the law society may not provide that result. You've got to keep agencies in the legislation whatever you do, so a paralegal can still act.

Also, we're saying one level of appeal for divisional law. You don't want to have it like the old rent control legislation where you had two trial *de novos*, two oral evidence. Then tenants got rent increases two years down the line retroactively. You want one appeal system and you want a quick determination but a fair determination,

and that's what you need. I've tried to set out in bullet form some of the things to be concerned with.

Also, I just wanted to point out, plain language — and I put a copy of a form 6. This is a problem that landlords have. You can see here it's drafted probably by lawyers. It says, "I hereby give you notice to deliver up vacant possession and occupation of premises which you hold of me as tenant" on the blank day of blank. Who talks like that, "which you hold of me as tenant"? Nobody. Why can't you just say, "Get out," in simple terms? So you've got here, and this is what happens, and it's just not the ma-and-pa landlord that makes mistakes like this. Often sometimes you'll have a landlord dating this and say, "Please get out in 60 days." They don't understand it. They think that notice is saying you're holding this unit on the same date you date the notice, so they date the notice the same day as they date the "Get out." So when they go to court 60 days hence and they say, "Give this to the registrar," they say, "I'm sorry, the notice isn't valid because they don't give the 60 days' written notice," even though it says that on the back. But it's not that clear, plus — and this is again a problem for landlords, because what I'm saying is the purpose of clear forms would be that people have access and the issues are decided on the merits, not if I can win on some technical defence.

Here's another example, "which you hold of me." You expect to get out in 60 days, tell the tenant to get out. You say the first day of the month, but if you pay rent on the first day of the month, the last day of the tenancy is the 31st, so if the poor landlord puts the first day of the month, he waits, he goes to court, and the judge says: "Sorry, that's not the last day of the tenancy. Try again." Just because he went one day over after giving 60 days. This is where you need it clear. Why can't you explain that the last day of the tenancy is the day before you pay the rent normally? It doesn't say that on this notice.

Also, the same thing about poor tenants getting repairs. You've heard this. There's no repairs form for tenants, so what do they do? They go to rent control, because it's an easier system to use. What we've found is that the tenants have been able to fill out the rent control forms themselves. They don't come to legal clinics for assistance, except for getting affidavits done. So it can be done, but this is just an example of the problems that you have, and it's not just tenants having trouble with accessibility, you have landlords.

The one problem I mentioned about the dating problem, I had doctors making a mistake, trying to kick somebody out on 120 days' notice, and doctors made that mistake. It's not clear.

I think I've talked as long as I should, but I've got other landlord and tenant issues here where I've indicated that should be done. What we are mainly concerned with is that the right to compensation for repairs be kept retroactive so that people can get repairs and compensation for an abatement of rent from the date the problems occurred until the date the repairs are done. That's the main thing we've got in here.

But as I say, if you're going to go to a tribunal system, please take the time. I don't think it can be done very cheaply. Also, I have to say you're losing a very cost-



effective system. We may have some problems with the courts, but they've done a very good job and they've been doing it in a quick, easy way. I think, if you're going to go to a tribunal, you're going to have to spend a lot of money and you're still going to have the same expenses for those same courts, because they won't be withdrawing their staff. They've been doing the L&T stuff added on to what they already do now. I'm finished.

**The Chair:** I don't know about you, but I'm exhausted. We've got a quick minute per member. You did an awful lot with 17 minutes. Mrs Ross, we've got a minute per caucus.

**Mrs Ross:** Actually, I have no questions for you.

**Mr R. Gary Stewart (Peterborough):** I don't know whether I can talk as fast as you or not, sir, but it appears to me that what has happened in the past, as you have indicated in the examples today, has not been working, so I think what we're doing in the discussion paper is to look at things.

One of the concerns I have is, you're saying that what we're possibly proposing is going to cost a lot of money. Is what we're doing now not costing a lot of money?

**Mr Skoog:** You have duplication, I admit, in some areas, but still, rent control mostly handles things from the Rent Control Act and the courts deal with landlord and tenant disputes in Small Claims Court and in the superior court. What I'm saying is it certainly does cost you money, but the problem is I don't think you're going to be able to save money when you take it out of the courts and put it into the tribunal, because you're going to have to add staff to the tribunal and then you're going to have to put more money there, plus with the anti-harassment unit, and you're still going to have the same expenses because right now superior court I think is paid by the federal government. They're still going to be sitting there, and you're still going to have the same staff. They don't have an abundance of staff. They're still going to be used to handle the cases that remain in that court. That's what I'm saying. Our policy committee wanted to say the expenses would still be there for the courts for this province, plus you're going to need to spend more when you put it all over to the tribunal.

**Mr Curling:** Thank you very much for your presentation. Of course, every government would like to put their brand on their legislation, and this government wants to throw out the baby with the bathwater. What you have said has been said all across the province where we've been, that the system is not perfect, but that doesn't say you must throw the whole system out. There are ways it can be fine-tuned, because they have emphasized exactly what you've said, that putting this in place would cost you more. As a matter of fact, if you have a system that's working effectively — people have stated that. The court is working and all they have to do is make it more effective and more efficient itself and give it more staffing.

Then, in the meantime, Lampert, who came here, is telling them, "Try and get it in and try and make sure that the next government can't change it at all." They want to guarantee something. I have an answer for them. Just turn the place as you do in a dictatorship, no more elections.

**Mr Marchese:** Is it Mr Skog or Skoog?

**Mr Skoog:** Skoog. It changes with the season. They call me Scrooge at Christmas.

**Mr Marchese:** No, no, I don't think so.

You obviously have a lot to say, and I appreciate your going at the pace that you did. I listened with keen interest. I just want to make some comments in relation to what you've said, because there's no time for a question. But first, on the simplicity of language that we use in forms, it has always been this way. In every committee that I've been aware of, we talk about simplifying forms. I'm not sure we ever get it right. We're amused by it all the time, but I'm not sure any government takes the time to undo some of those problems. But I think you're absolutely right.

With respect to solving the tax differential issue of buildings, I think you're right; it's complicated. No government wants to deal with the fact that if you all of a sudden take the tax burden from here and shift it somewhere else, someone is going to pay. It's a political problem, difficult, but I agree with you we should do that before we even talk about rent control.

**The Chair:** Thank you, Mr Marchese, and thank you, Mr Skoog. We do appreciate your input this afternoon.

**Mr Marchese:** I was trying to go fast too.

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## HOUSE OF FRIENDSHIP

**The Chair:** Our next presenters represent the House of Friendship in Kitchener, Ms Deborah Schlichter. Welcome to our committee. The floor is yours.

**Ms Deborah Schlichter:** I will take less than 10 minutes to present my material, so you will have some opportunity for some questions and maybe make up some time.

I'm here today representing House of Friendship's response to the New Directions discussion paper on the proposed tenant protection legislation. I'd like to start by telling you a little bit about who we are so you can put my comments into some context.

House of Friendship is a multiservice charitable organization with a mandate to provide services to low-income persons. Along with community outreach services, we provide 144 beds of accommodation through our continuum of housing, which ranges from emergency shelter, rehabilitative programs to permanent housing. While we are a landlord, we are also sensitive to tenant needs and we work together to provide safe, decent and affordable living communities. Many of our tenants have special needs and require supports in order to live independently.

I want to share some of the concerns we have.

(1) As an organization that provides housing for low-income persons, our main concern with the proposed tenant protection legislation is that it does not deal with the current lack of affordable housing. You've heard this said a couple of times already, and I'm sure in the other areas where you've been you've heard the same statement, but I want to go over it again. In fact, some of the suggested changes in the legislation will only compound this problem, according to what we feel.



First, as is proposed, the landlords will be able to raise the rent to whatever level the market will bear for new tenants moving in. How will this affect the housing available to low-income tenants? What the market will bear is not affordable housing for many people. Low-income tenants already are struggling with covering their existing rental costs, especially those on general welfare assistance and family benefits mother's allowance with shelter allowance cutbacks.

For example, a single person on general welfare assistance now gets \$325 a month to go towards their shelter costs. In our apartment that we have, the market rate for a one-bedroom unit, which is at the low end of market, is \$502 a month. You can see the discrepancy already that exists.

Many others are lining up on waiting lists for the small supply of subsidized housing so they will not have to pay more than 30% of their income on rent. We run a subsidized housing project. We have many people on a waiting list. Our waiting list is not moving because people are not leaving. They're safe. They know they have the 30% protection. The people who are waiting on the list are not going to be getting in because that waiting list is not moving.

What will happen to low-income tenants if rent rates increase substantially is that they will either have to take these high-priced units anyway because of low vacancy rates, be forced to spend more income on rent and therefore rely more on food banks, soup kitchens etc for their other essential needs, remain in substandard, overcrowded, illegal and unsafe housing that is affordable, or be forced to continue staying in hospitals and emergency shelters. None of these options are acceptable. This will be even more of a problem for those tenants with special needs who require not only affordable housing but supportive housing.

Secondly, the proposed changes to the Rental Housing Protection Act will also have a negative effect on affordable housing. Our concern is that without the current legislation in place, the limited supply of affordable housing will be further reduced as property is redeveloped or converted for other uses.

The real problem here is that there is already not enough supply of decent affordable housing to meet demand. This is a point on which we agree, as you acknowledge that rental stock is aging, vacancy rates are low and there are few new rental housing starts. Where we begin to disagree is the cause of this problem.

The fact is that rents will need to be extremely high to cover the cost to build and manage rental housing, especially if landlords expect to have a profit. Only a few tenants are going to be able to afford this. We feel that by removing rent controls and changing other legislation, this will not increase the supply of affordable rental housing but will instead make the situation worse.

I'm going to quote some findings that were in a study commissioned by the Ministry of Municipal Affairs and Housing, November 1995: *The Challenge of Encouraging Investment in New Rental Housing in Ontario*. It noted that regulatory changes alone will not be enough to stimulate substantial amounts of rental investment in Toronto, which has the most serious supply problem in

Ontario, and any new private rental starts in Ontario will target the high end of the market. That is our concern.

A second area of concern for House of Friendship is that we feel the proposed tenant protection legislation places even more responsibility on tenants than before. They need to challenge illegal rent increases, to negotiate with landlords for work done, such as a capital improvement or a new service, and to apply for relief of harassment. This means tenants will have to be even more aware of their rights and feel comfortable initiating these procedures. Who will be responsible for educating tenants, especially those who are vulnerable?

Our third concern is with the proposed creation of a new dispute resolution system independent of the courts. It is important that the system is a fair and accessible system for both landlords and tenants. The current system can work. Again I agree with the statement, "Don't throw the baby out with the bathwater." If the system can be made more efficient, let's work at that, the backlog of cases. If more time could be spent educating and supporting tenants and landlords on alternative ways of handling disputes, that could help deal with that problem. For example, since Eby Village opened in 1990, we've only been to court once, and we house what we call hard-to-house tenants. These are very difficult tenants to house and we have managed to stay out of the court system. It can be done. We try everything else first, with court as a very last resort. Unfortunately, it's hard to make any additional comments when the proposal for this new dispute resolution system is not yet developed.

Lastly, as House of Friendship operates emergency and short-stay facilities, we want to be clear about some of the terms that are used in the legislation. Can we confirm that "short-term accommodation provided as emergency shelter" will be defined as not being a residential premise, just as in the current Landlord and Tenant Act, and will the definitions and documentation for "facilities that offer temporary accommodations for therapeutic and rehabilitative reasons" remain the same as under the current legislation?

In summary, we have raised several concerns with the proposed tenant protection legislation, such as the negative effect on the supply of affordable housing, the increased level of responsibility placed on tenants, particularly vulnerable tenants, and the creation of a new dispute resolution system. We are also requesting more clarification of terms for those exempt from the new legislation.

We would like to add an additional caution of trying to make changes to several pieces of legislation at the same time without more consultation and time to think through all the ramifications, especially the effects on those who are struggling to find safe, decent and affordable housing. Thank you.

**The Chair:** Thank you for your presentation. We have about four minutes per caucus for questions, beginning with the Liberals.

**Mr Curling:** Thank you very much for your presentation. It seems to me you were here when Mr Lampert was here and he told us outright that he did not consult with tenants or other tenant advocacy when he was putting together his paper. He also stated at the end that the paper is not flawed in any way because housing — I



don't feel that either he or the government considered that you have any vested interest in how housing itself is being delivered, which is my concern.

I think, however, that having excluded you folks out of this consultation, after this is completed what's going to happen is that the government will write their report — I presume they're writing it right now anyhow and the legislation is being drafted right now as we go. When the legislation comes forward I hope they would have another consultation to go around to see the legislation reflects what the consultation was all about. Wouldn't you like to participate at that time too, if the legislation comes out, to make some comments on the legislation?

**Ms Schlichter:** Definitely.

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**Mr Curling:** Another question I'd like to ask you: What impact did that 21.6% have in your area when the government blamed the entire system of deficits and debts on the poor and cut the most vulnerable people? What impact did it have on you with housing?

**Ms Schlichter:** Unfortunately, what people were looking for were some statistics to show a large number of people looking for housing or a large number of evictions, things like that. What happens is that low-income people just accept their lot. They don't come forward and complain. They assume it won't make a difference anyway, so their numbers out there will not show the extent of the damage that is done by those cutbacks.

**Mr Curling:** Your report showed too that you had rents there of \$502 per month and people were getting \$325. Those are the people who got the cut.

**Ms Schlichter:** Right.

**Mr Curling:** Did you have to cut within your area too?

**Ms Schlichter:** Fortunately, we run a subsidized housing project. People within subsidized housing already are paying lower than the maximum shelter allowance, so they did not have any reductions.

**Mr Curling:** Did the government beef up at all that amount of money coming to you, because the government pays you, I presume?

**Ms Schlichter:** We had decreases last year.

**Mr Curling:** The suggestion by the government and some landlords too is, and Mr Lampert feels, that rental subsidies should come directly to the landlord. How do you feel about that, that the money they get should come directly? "Just disregard the food and what have you. Just send the money for the rent across to us."

**Ms Schlichter:** This would be a much longer answer. I'll do a short one. I think the rent subsidy, a supplement program, has some flaws in it. In order to make that system work, I think the investment of money will be a lot greater than the current system already in place.

**Mr Marchese:** Ms Schlichter, thank you very much for your presentation. I agree with many of the things you've said and I want to point those out and then ask a few questions.

First of all, with respect to the new dispute resolution system, you, like Mr Skoog, obviously believe the present system works fairly well, and I have come to the conclusion that it does as well. Ninety-five per cent of all

cases are settled. It's the 5% that are complicated, and the question is, how do you deal with it? A new system is likely to be very costly and the appointment process of those people who are likely to be there is very worrisome in terms of political appointments. So for a number of good reasons, it's best to make this system work better than creating a new system.

**Ms Schlichter:** I agree.

**Mr Marchese:** Including adding some simplification of forms both for tenants and landlords, which is I think a very useful suggestion.

In terms of a greater burden being put on tenants, I agree with that. This paper does nothing for tenants at all. In fact, it does put a greater burden, and when we talk about negotiating rents, it's an imbalance of power and therefore it's a problem.

In terms of harassment, people who are vulnerable — seniors are not likely to go to the landlord to complain. It's complaint-driven, and for that it requires a great deal of confidence from people. Seniors are a bit more vulnerable. People with disabilities are very vulnerable.

**Ms Schlichter:** It's just not going to happen.

**Mr Marchese:** People without literacy skills are very vulnerable and so the education is not there, and many tenant organizations have already been defunded by this government, so we know where they're at.

Now in terms of the questions: They say the system is broken and as a result we need to introduce decontrol because we think that's fair to the landlord. Do you think it's a fair thing?

**Ms Schlichter:** I think whatever we do has to look at a balance of both the landlord needs and the tenant needs. We can't go one direction or the other.

**Mr Marchese:** They argue that it does do that for both.

**Ms Schlichter:** It doesn't.

**Mr Marchese:** There's a point you make here in terms of the problem, where they argue the real problem is that there is already not enough supply of decent affordable housing to meet demand. You've heard Mr Lampert, who said that's okay; when the private sector, if we give them a whole lot of things, builds down the line, then there's going to be a trickle-down effect, meaning the poor obviously will be able to get into those other rental accommodations that are at the very high end. He's an economist. Obviously we're not. But do you really believe that?

**Ms Schlichter:** Landlords are already not making enough money, and if they get a chance, they'll raise those rents. People already can't afford the rents that are in place now.

*Interjection.*

**Mr Marchese:** Mr Spina obviously disagrees with me. I look forward to hearing your question on the next turnaround to see how you phrase that one. The trickle-down effect in my view is not going to work. He presents that as fact. It will not build affordable housing and it won't be for people who can afford it, so if you have a question, you or your friends, I'd like to hear how you're going to solve that.

In terms of the reason for non-profits and co-ops, Mr Skoog made a very important point. He said the competi-



tion of the private sector with the non-profit and cooperative has been very good inasmuch as it has been able to lower rents. Isn't that a good thing for tenants?

**Ms Schlichter:** We don't think we're in direct competition to private landlords. We feel that we house the people that private landlords have not housed in the past and do not want to house. We house the hard-to-house people, the very difficult clients, people with special needs. We don't see the competition. We think we can work together and provide different services to the community. We're not trying to discredit what private landlords do. We think we both have a place in the marketplace.

**Mr Danford:** Thank you for your presentation. I think you've been rather straightforward, and that's what this is all about.

One of your concerns was with the dispute resolution system. I think we all agree that it has to be fair and accessible to both landlords and tenants. That's paramount. Given your excellent record — as you say here, you've only been to court once since 1990, and I think that is exceptional. This is a discussion paper. We're looking for input from the public and I think this is an opportunity. I'd be interested if you would share some of the things that you think would improve either the present or what's proposed and how it could be done better.

**Ms Schlichter:** What works for us is that we try to stay away from the tenant legislation as much as possible. We work with our tenants very closely. They know what their rights are, they know they can take us to court if they want to on all sorts of things, but we follow what we're supposed to do to the letter of the law. We do more than that: We make sure our tenants are treated fairly. They are involved in the process and they are involved with the management of our building. We have less cost because of their involvement, and because of that we don't have the disputes other landlords would have.

**Mr Maves:** In your last point, part 4, you've mentioned, "Will the definitions and documentation for 'facilities that offer temporary accommodations for therapeutic and rehabilitative reasons' remain the same...." Currently, it's defined as six months, I believe.

**Ms Schlichter:** Right.

**Mr Maves:** Would you like that to be extended beyond that in these cases if it's obvious that it's supposed to be temporary?

**Ms Schlichter:** Six months is fine for us, but what gets confusing is we've got two different answers: if it's by program or if it's by individuals within the program. We have some people in our emergency hostel situations who have to stay longer than six months because they cannot find affordable housing to move to. Is it by program or by the people within the program? It's some clarification. We've got two different answers. Those are the problems.

**The Chair:** Mr Danford, did you have another question?

**Mr Danford:** No, I think she has clarified it well enough. I was looking for something even more specific than the general answer you gave me, but I don't think there's time for that.

**Ms Schlichter:** You're invited to come to Eby Village and we'll show you more.

**The Chair:** Thank you very much, Ms Schlichter. We appreciate your input here today.

#### KITCHENER-WATERLOO HOME BUILDERS' ASSOCIATION

**The Chair:** Our next presenters represent the Kitchener-Waterloo Home Builders' Association, John Schnarr, the president, and Lyle Hallman, CEO of the Hallman Group. Good afternoon, gentlemen. Welcome to our committee.

**Mr John Schnarr:** Thank you for allowing us to speak today. My name is John Schnarr. I am the president of the Kitchener-Waterloo Home Builders' Association. With me today is Lyle Hallman, the chief executive officer of the Hallman Group and a member of our association. I'll present our opinion on how the association perceives the proposals, while Mr Hallman will focus on the impact from a property owner's perspective.

Just a little background on our association: It was formed in 1946. This year is our 50th anniversary. We are the voice of the residential construction industry in Kitchener-Waterloo. Our membership of 180 companies consists of building contractors, developers, renovation contractors, trade contractors, suppliers, manufacturers, property owners and professionals such as engineers, lawyers and planners. Kitchener-Waterloo Home Builders' Association is a member of the Ontario Home Builders' Association and very much supports the comments made by OHBA to this standing committee on August 20.

In addition to meeting the demands of people who have chosen to purchase their own home, our members have tried to address the needs of those who choose to rent. Whether through construction or through property management, we have endeavoured to provide the best-quality rental accommodation possible. We appreciate the opportunity to address the committee on this important topic.

We are pleased that the government has recognized that the existing rent control system is in need of a major overhaul. The introduction of rent controls in 1975 and the impact of rental legislation, particularly over the past 10 years, has severely diminished the incentive for builders to expand the stock of rental housing in Ontario.

It is our opinion that the proposed reforms are a good first step. On its own, it will not produce new market rental housing. There are many other facets which influence the decision to supply rental accommodation. All of these issues need to be addressed: important concerns such as streamlining regulations, development charges, discriminate property taxes and the goods and services tax. Unless the gap between economic rent and market rent is reduced, there will be limited, if any, new rental construction generated because of these proposed reforms.

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As you know, our rental stock is aging and has reached the point where major building components are in need of repair or replacement. Eliminating rent control on units



becoming vacant should allow landlords the opportunity to generate revenue to assist in the financing of these needed renovations. This increase in renovation spending will have a positive impact and will increase employment.

Groups in favour of maintaining total rent control will raise the issue of affordability, especially since the financing of new social housing projects has been cancelled. The issue of tenants' ability to pay an affordable rent should not be a cost to be borne by the private sector. If tenants are unable to afford a market rent, then the people, through the government, must decide on how to assist those in need. The Ontario Home Builders' Association has advocated a system of shelter allowances as one alternative.

Also, there are measures to amend the Rental Housing Protection Act. The proposed changes are realistic, especially since existing tenants will have a protected tenure. Conversions of rental housing projects to condominiums have been successful as tenants have an opportunity to become homeowners. Another positive outcome is that there are usually significant renovations associated with these conversions.

As I mentioned, Mr Hallman has joined me today. He'll briefly provide the view of a landlord.

**Mr Lyle Hallman:** My name is Lyle Hallman and I am the chief executive officer of the Hallman Group of companies, including Hallman Property Management, and have been a member of the home builders' association since 1946; 1995 was the 50th anniversary of my successful business experience. We have built, and own and manage, more than 3,000 apartment suites in the surrounding area. I am well versed in rent control and the many rights and obligations pertaining to it.

I compliment the Ontario government for taking initial steps in the process of removing rent control and its restrictions. I would like to see the government remove all controls over a four-year period and let the market set the rent, not someone else. This can be accomplished by removing controls over rents over \$900 in 1996; the rents over \$800 for the year 1987; the rents over \$700 for the year 1998; rents over \$600 for the year 1999; and all controls as of December 31, 1999, entering the next century control-free.

I also point out that I am very much in favour of the rent supplement program, also known as shelter allowance, where the government provides funds for the truly needy to help pay for their rent. This will only work when properly trained staff thoroughly trained in the art of investigation investigate all actual applicants as to their actual needs. This approach will save us all money and eliminate those persons who are taking advantage of the current system. I might add that our company, Hallman Property Management, has worked closely and will continue to work closely with whatever system the government may initiate.

You have previously received reports and submission from the Ontario Home Builders' Association and several other bodies, and I would like at this time to refer you to the report from the government, which everyone has, Tenant Protection Legislation: New Directions for Discussion. I would like to save time and I'm sure you have read many of the sections I'm referring to. I'm

referring you to several clauses in the above document with which I am in agreement: page 3, maintenance; page 7, the dispute resolution system; page 10, security of tenure and conversions. As I said, I am in agreement with the above; however, the one point I wish to bring out again for your consideration is that all rent controls should be removed over a maximum four-year period.

The proposed current system will allow leeway as to increases in rent when a suite becomes vacant. By the way, the rent control system was initiated primarily for the Toronto area in 1995, and we in the balance of Ontario have been suffering because of that. Their rents may be increased a little bit higher than they would be around here. Their current vacancy rate is 0.8%. Our area may only have a modest increase due to the 3% to 4% vacancy. My company would rather have full occupancy and hold increases to a minimum.

The wave of the future will be for the government to provide rent supplement programs to provide assistance to those who are truly needy, and I say it again — truly needy.

**Mr Schnarr:** Our association is pleased with the direction of the reforms and urges the government to proceed. We're willing to discuss and comment on other initiatives which may be needed.

Thank you for allowing us time for this presentation. Lyle and I would be pleased to take questions.

**Mr Marchese:** Thank you both. We've heard many landlords who have come in front of this committee who have said that there will not be any increases as a result of decontrol. Do you agree with that statement?

**Mr Hallman:** Except when you have a 0.8% vacancy rate, the pressure becomes very tight to raise gradually. In this area, I would rather have a full building than bump the rent 50 bucks.

**Mr Marchese:** So you do agree there will be rent increases — modest, no doubt?

**Mr Hallman:** There will be modest increases, but the market will dictate.

**Mr Marchese:** What do you think a modest increase might look like?

**Mr Hallman:** No idea.

**Mr Marchese:** Do you believe that those increases, however modest they might be, might have an effect on low-income people?

**Mr Hallman:** Along with this, I would suggest that the government is in the process of revamping the system to determine who does get shelter. The system today does not investigate enough, and there are a lot of people living in government housing who should not be there.

**Mr Marchese:** I understand and I want to get to shelter allowance in a second. You also make the point that somehow when you get this increase as a landlord you're going to put most of that money into repairs, that you haven't been able to do that before.

**Mr Hallman:** That's correct.

**Mr Marchese:** Do you at the moment get your 2.6% guideline increase?

**Mr Hallman:** Yes.

**Mr Marchese:** Pretty well every year?

**Mr Hallman:** If it's legal, we'll take it.



**Mr Marchese:** Of course. Have you ever applied for that above-guideline increase?

**Mr Hallman:** No, we haven't.

**Mr Marchese:** So most of the money that you've been receiving has been going back into repairs?

**Mr Hallman:** That's right.

**Mr Marchese:** You could almost demonstrate that if we asked you to?

**Mr Hallman:** Yes, if you would prepare me for that.

**Mr Marchese:** In terms of shelter allowance, you say you agree for those truly needy, and I understand that. Do you agree that the government should let us know in advance of this proposal what the shelter allowance might look like in terms of numbers? Should they tell us?

**Mr Hallman:** The numbers of what?

**Mr Marchese:** You agree with a shelter allowance?

**Mr Hallman:** Yes.

**Mr Marchese:** Do you think they should give us a figure in advance of this proposal?

**Mr Hallman:** So much a month, you mean?

**Mr Marchese:** Yes.

**Mr Hallman:** Yes, I think that would be fair.

**Mr Marchese:** Let's see what they say. They haven't spoken to this, but we'll see. Maybe they'll answer that.

There's a point that you speak about in terms of the effect it might have on tenants with respect to affordability and you say you should not be shouldered with that responsibility. That's why we as a government, the NDP government, built non-profit and cooperative housing: to house the needy. Ms Schlichter talked about that, because they house people with needs, with disabilities, with assistance that otherwise the private sector would not be providing. That's why we were into that whole field, because we knew the private sector wasn't providing it. We did it. Do you agree with that kind of approach to non-profit and cooperative housing?

**Mr Hallman:** No, I don't. Building properties is the most expensive way to house people. We can build a building for a lot less than what you can and the government can.

**Mr Marchese:** Do you build according to people's needs, for example, people with disabilities, people with mental illness, people with HIV? Do you take that into account when you build your buildings?

**Mr Hallman:** The last group of buildings that we built, because it was included in whatever it was, are wheelchair-accessible. That's all we have, wheelchair-accessible.

**Mr Marchese:** Are many buildings wheelchair-accessible?

**Mr Hallman:** Not all, no.

**Mr Marchese:** Do you think they should be?

**Mr Hallman:** No, because everybody is not in a wheelchair.

**Mr Marchese:** I understand that. You also say here on your first page, and it seems to be an apparent contradiction, "The introduction of rent controls in 1975 and the impact of rental legislation particularly over the past 10 years has severely diminished the incentive for builders to expand the stock of rental housing in Ontario," and you make it appear that is quite the significant factor. Then in the next paragraph you say, "On its own it will

not produce new market rental housing." The one paragraph says "severely diminished the incentive"; the next one says, "On its own it doesn't do it."

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**Mr Schnarr:** At the point in time that rent controls and the other rental legislations came in, yes, it severely diminished it. That was one factor, along with these other factors which through time have impacted on it.

**Mr Wettlaufer:** Lyle and John, thank you for coming. I would like to point out, first of all, that Mr Hallman is the largest holder of rental units in this region and is recognized as being a very generous individual who looks after his tenants.

You said that while you're very much in favour of shelter allowance, "This will only work when properly trained staff thoroughly investigate all applicants as to their actual needs." We hear many stories from time to time that presently, with non-profit housing or shelter allowances or subsidized housing or whatever, the staff the government employs is not adequately trained. Could you give us an idea of what the shortcomings are and what the improvements could be?

**Mr Hallman:** Currently we have 217 units in our inventory with Ontario Housing, and it's gradually being depleted. We are being reduced because they can't find the people to put into them. Have you ever heard of that before? Well, it's happening in Kitchener-Waterloo. We at one time had over 250, but now they have cut off the leases we had with Ontario Housing. What was the question again?

**Mr Wettlaufer:** I was wondering what the shortcomings of the present system are and what could be done to improve it.

**Mr Hallman:** I think if the government is going to stick to its guns and provide housing for the truly needy, not for those who think they are truly needy — people have to be trained not to give the product away. People have to be able to prove that they are needy. In some of our residences one person applies and three or four people are living there. That's not fair game or what it's for. They don't need more; they just need informed staff. They're acting on what the government tells them to do, and I think you're telling them the wrong thing. Go and get the guy.

**Mr Wettlaufer:** If the government set something up like this, would you be willing to sit on a committee to advise the investigators?

**Mr Hallman:** Yes, I'd be pleased to do that. What's the pay? I'm a landlord, you know.

**Mr Maves:** In your recommendations you say you endorse the proposals for maintenance that we have in the document. I'm a little surprised at that because some of these are very stringent: an increase in fines, things that are made an offence. Very few landlords have come forward and said they agree with some of these maintenance provisions. Could you comment on that?

**Mr Hallman:** Over the years my worst enemy has not been the tenant; it's my competitive landlord who does everything wrong. I'm in favour of tightening up the rules. We play by the rules, and if the other guy doesn't play by the rules, he's my enemy. I'm in favour of tight rules to get rid of the Johnny whatever you want to call him.



**Mr Maves:** If a property standards officer paid you a visit, told you of something that needed to be done in one of your units and you didn't do it, then the property standards officer was called back again because it was unaddressed, do you think it would be fair for that landlord to have to pay a fee for non-compliance for that second visit?

**Mr Hallman:** Yes.

**Mr Sergio:** Thanks for your presentation. I have absolutely no qualms in believing that you are a very respected and generous person. I hope that includes politicians as well; being generous too, that is. Are you familiar with the Lampert report?

**Mr Hallman:** No, I'm not.

**Mr Sergio:** Are you, Mr Schnarr?

**Mr Schnarr:** No.

**Mr Sergio:** You've never been contacted by Mr Lampert?

**Mr Hallman:** No. We're not listed in the phone book.

**Mr Sergio:** Oh, I'm sure that if they wanted to consult you, they would have found you.

This is a report produced by a consultant for the government on how to spur the economy to build affordable rental accommodation. It's a good report to be used as a base for the government, and we had Mr Lampert here making a presentation to our committee.

In summary, this is what he says: First rent control has to go, the most important thing; then he wants an assurance regarding the future rent control environment, which means he wants to tie up some future government so that rent control is not going to be reintroduced; phase in fair property tax assessment on rental buildings, immediate reduction for new buildings; streamline regulations and reduce costs for development; harmonize PST and GST with caution and whatever.

He thinks this would create new people to come back in the market and build rental housing. But then he said we also need a shelter allowance, otherwise the previous things won't do. Subsequent to that, a question from my fellow member here was, "How long would it take for you to come back in the market and start to build affordable housing if the government were to listen to your demands and give you everything?" His answer was, "No one will build for the lower end of the scale."

You are both a landlord and from the housing business. Given this information that someone has been paid by the government to produce a report, do you think this is the time for the government to get out of the housing business totally, cancelling every program, cancelling funding to every group, cancelling funds for the rent registry, cancelling funds for advocate groups? Knowing this, do you think this is the right time for the government to get out of the housing business totally, when its own consultant says that, given all that, no one — you or you — will come back on the market and build units for the needy? What would it take for you?

**Mr Hallman:** We can't build units for the needy. I'll just give you a choice for the record. We need, for a regular Chevrolet-type apartment, about \$750 a month.

**The Chair:** Thank you, gentlemen. We appreciate your coming forward this afternoon and giving us your input.

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SUZANNE TAYLOR

**The Chair:** Our next presenter is Suzanne Taylor. Good afternoon. Welcome to our committee.

**Ms Suzanne Taylor:** I'm probably not the best public speaker, so I issue my warning and my apologies.

Before I begin, I just want to say I'm not party-conscious. I only vote on policies, never people nor parties. I don't know any of you, so I consulted the Hansard reports to try to get an idea of who you all are.

On May 9 a private member's resolution was brought forward by Mr Stewart which was supported by Mr Carroll, Mr Tilson, Ms Ross, Mr Wettlaufer and others. In Mr Stewart's words, it was a resolution in support of "freedom of speech in our democratic society." I know by this that you were all able to vote your conscience, and that's what I'm asking you to do in terms of voting again in favour of freedom and democracy.

I'm a tenant advocate and a front runner. I deal directly and quite closely with landlords and tenants. Mostly the complaints I receive are in regard to property maintenance, which I will speak about.

I also want to speak about levelling the playing field. I visited a Web site recently where I read the quote, "Socialism...condemns the less motivated to perpetual dependence on the state." I believe that less motivated landlords are going to become dependent on the state under this new proposed legislation. We don't want this to happen. If you're cutting back on handouts to other businesses, why are the landlords' hands still out?

I'm also concerned with effects in other sectors. Landlords' ceasing of maintenance and new buildings — the same thing seems to be going on in other sectors also: Doctors are not going to take new patients; the quality of care in health facilities is deteriorating; user fees are running rampant; children are not permitted entry into schools unless they foot the bills. People, not just tenants, are not happy.

This playing field is far from level, and not just between landlords and tenants. According to your proposal, landlords will enjoy benefits not afforded to other businesses. In most businesses, capital expenditures are depreciated until they reach zero value. After that time they can no longer be used to shelter a portion of the business income. You are proposing to allow landlords to keep this shelter perpetually. Not only will they shelter greater portions of their incomes, but the tenants will pay for it. In what other business do you find customers providing shelters for suppliers? If you think this is level, then the instruments are off.

Concerning sitting tenants, the very first thing that came to my mind when I read "sitting tenants" was affirmative action. I think sitting tenants will eventually become token tenants.

I spoke with an 83-year-old engineer who's the inventor of the twist-top bottle cap, jukeboxes, a number of inventions. He has a wall of patents. He said that it never concerned him whether or not he was appointed to certain committees or given certain tasks based on his abilities. Now he doesn't want to be a token black; he just wants to be considered on his own merit.



For instance, what if these sitting tenants have free landscaping whereas a new tenant coming in has to pay a \$20 fee? Eventually we won't hear things like, "He's in this position because he's this, this or this"; we will hear, "Oh, that's because that's a sitting tenant." It's the same thing. We're going to feel the effects of affirmative action. It's a term not well recognized here in Ontario but it will be; I really believe that. I've spoken to tenants and they believe it will create a new social barrier that wasn't there prior.

In terms of unfair rent increases, one of the worst I can think of is a municipality recouping costs in the form of taxes, which increases the tax, so the landlord raises the rent to cover that; meanwhile it's his own neglect that tenants are paying for twice, so they have to apply to reduce the rents. It's just bizarre, and I think that needs to be addressed really well.

You say that the landlord has no control over taxes and how they increase. Well, a tenant has no control whatsoever over the neglect of the property and how the property is maintained, so I think it needs to be equal there. I think it would be better for the municipality to collect rents directly from tenants in the form of a garnishee against earnings, as any other business does. This process may take a little longer, but it would not increase the taxes, and interest can be charged for the term of waiting.

Rent increases mutually agreed upon for capital improvements also needs to be looked at, because I know that landlords get trade rates. A tenant may think, "Oh, I know it costs \$800 for this carpet," but that's not true. One of the largest landlords in this community is also a carpet manufacturer. His costs are going to be considerably lower. So I think that tenants should be privy to the actual costs. If I go to purchase any product, I can make an intelligent decision based on cost comparison. Tenants can't do that in terms of these capital improvements because the average tenant won't know. I think they should be made privy to the actual cost so they can make an intelligent decision concerning these new improvements.

Present legislation states that the landlord is responsible for the condition of the property regardless of the conditions when a tenancy begins. This protection must remain. Legislation should confirm that tenants are not required to compensate the landlord for any loss due to the neglect of the premises, as it does presently. Why should future tenants be responsible for the neglect of past years?

Also, tenant advocacy: As Mr Skoog mentioned, I really think that agents — we read throughout legislation "the landlord and his or her agents," but we don't read that same protection regarding tenants and I really think that should be introduced. Oftentimes tenants can't afford lawyers and they need other affordable representation. With the defunding of advocates, I think that's a very cost-effective way for you to give them some additional protection. If they can find other means of affordable representation, they should certainly be entitled to do so.

Also, if matters are kept out of courts because they're able to work it through between themselves and a private mediator in the form of an advocate, that reduces court time, municipal involvement and cost to government and

taxpayers. Stronger communities are developed through tenant associations and landlords become better educated. Hence, landlords are less likely to repeat the same offences and harassments decline. In the worst-case scenario, the landlord thinks he's merely a rent collector. This is the landlord who costs the most to the community.

It doesn't take long before landlords learn of the political unwillingness of the municipal enforcement officers to issue work orders. I'm presently dealing with a landlord who has had the municipality involved with his property over the past three years, and I have yet to see a work order. On this property, I'm telling you, I stood in the tenant's basement and witnessed the tenant flush the toilet and the toilet emptied into the basement. Okay? This was witnessed by property standards, and there was no work order issued. So I know this goes on. I know there's a political unwillingness of some enforcement officers to just simply not enforce. I really think the province should enforce where the municipality fails, because in some instances I've seen the municipality fail quite miserably.

On another occasion I've had to contact my local city council member to get results, which worked, so I know that additional pressures from superiors is good motivation. I've seen it work.

A tenant has done nothing wrong in contacting authorities, and advocates are not merely busybodies with nothing else to do. Tenants have a fundamental right to secure and enforce their rights without any hindrance and must seek the most affordable assistance. By reducing legal aid and defunding advocates, your actions speak contrary to your written intent. How do you hope to level the playing field when you have already so drastically tipped the scales in favour of the landlords? When both landlords and government interfere with the securing and enforcement of citizens' rights, you put tenants in a nearly impossible situation. When tenants complain, they're the bad guys. They're treated as though they have their nerve calling on authorities.

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The harassment and cold shoulder treatments from landlords are bad enough. When you couple it with a municipal enforcement officer who asks tenants if they have considered moving and suggests eviction to the landlord, the tenant's life becomes unbearable. In some cases I have heard that the tenants cannot even get these inspectors out of their offices to conduct any inspections. Additional powers will not solve this lack of political motivation. I really believe that their superiors have to be pressed upon to take more time and more consideration and to look more closely in overseeing the actions of these enforcement officers and also more closely in monitoring the results of their inspections.

Your paper suggests that the municipality will respond quicker and more favourably in future due to the officers' additional powers. What if they fail to act appropriately? Will you govern them and ensure that faster, more serious action will be taken? The system is tenant initiated. Throughout present legislation, again I state, we find the term "the landlord and his or her agent." I think it really helps, because I know that in a lot of cases the tenants have told me: "We've tried this. We've tried this.



We've tried this. We've phoned, and we're not getting anywhere." I've been able to help them in getting through that in a cost-effective manner, and to this date I've managed to keep all matters out of courts. I've never advised a tenant to go to court. It's never been necessary.

Your proposal to increase maximum fines: I don't see that as solving anything because the minimum fines are clearly the problem. The minimum fines present a cost-effective means for the landlords to avoid compliance. Why would a landlord spend \$25,000 on a roof when he can pay \$300 and buy himself another year? If it doesn't come back, if nothing happens over the next six months, nobody can force him to do his roof in the winter, in which case he's bought himself nearly an entire year. That's what minimum fines do, and meanwhile the tenants are suffering. The proposal just turns up the heat in that respect.

I believe that minimum fines should increase, and prohibition orders should be automatic and not dependent upon a municipality's application. What if the municipality doesn't apply for a prohibition order? Then what?

You make too many assumptions regarding the municipality's anticipated eager participation. The pro-landlord attitudes of many officers will not change overnight. Don't count on it. Legislation must be in place for the province to enforce.

Also, once a tenant has notified a landlord in writing, and given adequate time to respond, enforcement should be instant. You don't want to duplicate the municipality. Well, tenants don't want the municipality duplicating them either. I had a case recently where a tenant properly notified the landlord, the legal owner of the property, of all necessary repairs, and then I had an enforcement officer tell me, "Well, the property management company didn't get that." When I clearly told the property management company the owners had that information, they made no attempt whatsoever to obtain that information from the owners and we had to start the whole process again. I had to then notify the property management company and begin again. It took us two months just to get an inspection because we had to give adequate notice twice. They don't want to be duplicated in that respect either. I don't know why I had to duplicate that, but it happened. Because of an outstanding city council member, adequate action was eventually taken and the problems on that property are being solved even as we speak. But municipalities are often reluctant to issue orders and it needs to be addressed.

They should also notify tenants. Tenants should receive copies of notices and orders, because how are they to monitor? The landlord shouldn't be the only source of that information. Tenants should contact the municipality. They're the ones who live there. They know best what's going on there, and especially in terms of fire protection, where it may be a threat to their health and safety, and losses suffered by the tenant as a result of non-compliance. The municipalities are not involved in the process of assisting tenants in recouping costs so we need a system that allows them to do that.

As for the right to enter, why not level the playing field between landlords and other businesses there too?

Other businesses have to operate 9 to 5. Why can't landlords? Why does the landlord have to show up at 6:30 in the morning or 9 o'clock at night? People are getting ready to go to work, mothers are getting their children off to school or trying to put them to sleep at night, and this guy shows up with a hammer. It's just not decent.

You're saying on one hand we should give proper notices to landlords before contacting any enforcement officers out of sheer decency. I agree it is the decent thing to do and it's always done where I'm involved, but we want some decency as well. It's just not decent, and all we're asking for is that courtesy. And yes, I think it should be legislated. If you want balance, they should be balanced out with other businesses in that respect also.

That should also follow in terms of showing a unit. There's no reason why a landlord can't show a unit within decent and agreed-upon times. There's no reason whatsoever. Tenants are uncomfortable about having perfect strangers strolling through their homes at any time the landlord chooses, and it's not right. Often it's used as a form of harassment, because the tenants are on their way out. The landlord doesn't feel he owes them any additional respect or courtesy and doesn't give them any.

Rental agreement negotiations: They will vary socioeconomically. A poorer tenant may not opt to pay an additional \$20 monthly for landscaping services, just as an example. When this lawn care is repeatedly overlooked, how long do you think it will take before other tenants figure out who has fewer finances to support additional services? The poor will be centred out. The tenants who are financially better off will soon feel the brunt of this as well. When they find out that some tenants are receiving this same service for free, they will resent having to pay the cost. That's why I'm saying it'll turn into something really ugly like affirmative action. I know a lot of people agree with affirmative action, but I've seen the worst of it. As I explained to you with the engineer, it wasn't fair to him.

I know that the hour is late for us all and I don't think your task is simple, that's for sure, and I wouldn't want it. I really would not want the job. But I do press upon you to vote your conscience, particularly in areas involving the socioeconomic factors. If your intent is to bring balance, then make sure that balance is brought across the board and balance landlords out with other businesses as well as with tenants.

**The Chair:** Thank you, Ms Taylor. You've got about a minute left. No time for any questions. Did you have any final comments you wanted to make?

**Ms Taylor:** No.

**The Chair:** Okay, thank you very much. We appreciate your coming forward today with your ideas.

#### ESTATES TENANTS' ASSOCIATION WATERLOO REGION TENANTS' COALITION

**The Chair:** Our next group is Estates Tenants' Association, Mary Pappert, Mildred Rodina and Matt Pappert. Good afternoon. Welcome to our committee.

**Mrs Mary Pappert:** We are with the executive of the tenants' association for the Estates Apartments and we're



also members of the Waterloo Region Tenants' Coalition and we submit our brief on behalf of both groups.

We are here today to ask why the Ontario government proposes to repeal rather than improve six pieces of tenant protection which protects our members, to question the logic utilized to develop the many proposals and to outline the impact of these changes and how they would affect our tenants and to submit some constructive suggestions for your consideration.

I know we're in the cleanup spot. This is the last day of the hearings and you must all be very tired. We watched the proceedings on TV from August 19 to 23 and most of the points we want to emphasize have already been made, so what we're going to do is cite some of the issues of particular concern to us and personalize them by referring to the impact they will have on our tenants and give you a basis for comparison from some of the other presenters. I doubt we'll have any time for questions. I'm long-winded.

Like many of our tenants, we lived in a private home from 1953 to 1984, but we had divided our three-storey older home into apartments, so I've had some 30 years' personal experience as a landlord. When we decided to move away from home maintenance 12 years ago, we looked at several apartments and we finally decided to move into the Estates because it appeared to be a well-built, moderately priced, 131-unit, 12-storey building opened in 1966, moderately well-maintained and housing mostly seniors. Our apartment is owned by a large company which owns approximately 12 apartments in our region and other cities. After talking to many other tenants from other buildings and exchanging experiences, I believe that our owner's method of operation is fairly representative of most of the apartment owners in our area. Therefore, I believe our comments are relevant.

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Like most other tenants, we invested hundreds of dollars to paint, paper and install rugs, shelves, lighting, ceiling fans and improvements of all kinds in our apartment homes, and we plan to stay there for many years. With few exceptions, our building's tenants are clean, quiet, responsible people who maintain their homes carefully. Many have resided in our apartment for 15 to 20 years, some since the building opened in 1966. You will notice I say "apartment homes." I'm not saying "units" and I'm not saying "investment properties." I'm saying our homes. These are our castles. It's where we live.

Currently, of our 131 apartments, 90 house seniors over 60 years of age; 63 house women who are living alone — we have primarily widows; 27 house people with some health problem, either sight, hearing, maybe they use a cane; and we've got many relatives living our building. We have a very nice family atmosphere.

But because we are responsible tenants, our owner benefits from reduced maintenance costs, less vandalism and less wear and tear from frequent moving. We pay our rent regularly and we seldom move, so our owner has minimal vacancy and a stable financial base. Because of the improvements our tenants make within their apartments at their own expense, the owner's equity in our

building is enhanced. Good tenants, like good customers of any business, should be appreciated and encouraged.

With regard to the rents we pay and condominium conversion, although our tenants' incomes vary, most are on fixed budgets with minimal increases for pensions or small wage increases. Most moved into our building from private homes and plan to stay and they cannot afford, financially, physically or emotionally, to move from their apartment homes. They can't afford to pay much more than their current rents, and they certainly don't want to adopt the financial responsibility of buying and maintaining a condominium. That's why we moved to an apartment in the first place.

They know that the cost to maintain our 30-year-old building will escalate in the next few years. Heating, plumbing, wiring and appliances are going to need upgrading; the cost of this should be paid by the current owners but would fall to the tenant-owners if the condominium conversion was allowed. We strongly oppose the relaxation of controls for condominium conversions and the threat it holds for our tenants.

The mortgage on our building was paid off in approximately 1990. The owners have presumably saved mortgage financing payments since that time, yet the cost of financing was built into our rent; it's compounded annually and we're still paying it. We assume that prudent owners should have budgeted these extra moneys into a fund for the upgrading they know will be required in a 30-year-old building.

Our rents are really within the average range in our building in the K-W area: one-bedroom units from \$504 to \$535; two-bedroom from \$568 to \$631; three-bedroom \$721 to \$801. We pay, in addition, \$327 for underground parking or \$42 a month if you take it for short periods.

Is our owner receiving sufficient rent increases to maintain our building? By our calculation, in the calendar year 1996-97, our owner will collect rents totally \$933,851 plus several thousand dollars from underground parking. That's close to \$1 million. In the 12 years from 1985 to 1996, Ontario tenants paid rent increases of, when compounded, 66.8%. That's in 12 years. Compare the cost of living just in the last seven years. In Ontario it went up 17% compounded, nationally 18.7% compounded, but our rents have compounded at 38.3% in the last seven years. Our rents have increased twice as much as the cost-of-living expenses. You'll find statistics in the two appendices to substantiate what I've just said.

Is that enough to maintain our apartment? How does it compare to costs? Why remove rent controls when rents are already producing increases such as these within rent controls? How much more incentive do landlords need to maintain their buildings and how much more can tenants afford to pay?

Each year the owner gets 2% to use to maintain our building. Tenants are never permitted to see how these rents are utilized to pay the expenses, nor are they allowed to question what profits their landlords realize from their investment. We are stakeholders, much as stockholders in a corporation, yet we're never given a profit and loss statement. Since the legislation in 1992, even the Ministry of Housing is not allowed to ask the



owners for this information as they adjudicate rent increases above guidelines or rent reduction applications. Profit and loss statements are necessary to make just decisions.

I would like to comment on how our experience has been working within the legislation that's currently in place. In 1986 our owner refused again to meet with us to discuss the escalating deterioration of our apartment building. Many seniors in our building were intimidated by management and unable to speak individually.

We decided that the only way we could get our owner to listen and improve was to have a collected effort by forming a tenants' association. We formed in 1986 and for the next five years made every effort we could to communicate with our tenants and our landlords. We had numerous meetings and surveys. We had inspections by the property standards officer and the fire department to support our position. We documented the problem we were having with our superintendent as well and the continual deterioration of our maintenance and we substantiated everything with photographs.

In spring 1992 we compiled the information in a letter to our owner asking for a meeting to sit down and talk about our problems and we also asked if there were any plans scheduled to replace the 28-year-old rugs and wallcoverings etc. He would not meet with us. He would not discuss anything with us. He would do nothing. His reply was, "If you don't like the building, you can move."

Therefore, in 1992 we were forced to file for a rent reduction hearing as the only tool we had to improve our situation. We weren't looking for a rent reduction; we just wanted the owner to take better care of our property. We waited for a year and in December 1993 we had our hearing. With the assistance of our lawyer, we won our case.

In May 1994 an order was issued by the Ministry of Housing granting a rent reduction of 2% retroactive to July, and every tenant in the building received that, but there was nothing within the legislation which allowed the ministry to impose or force the owner to improve the overall maintenance of our building.

The results from our hearing were that only the improvements ordered by the property standards officer or the fire department were actually implemented. No changes were made by the management to the day-to-day maintenance of our building, nor was there any improvement in our superintendent's efforts or skills. Although the owner stated he had an open-door policy, that tenants were welcome to speak to him directly, he still refuses to speak to us. The only way we can communicate is by letter.

Our recommendation is that a better mechanism be developed for judgements in cases of rent reduction hearings to oblige the owner to perform regular maintenance of apartment buildings and provide documented proof that the 2% annual increase is in fact used for maintenance.

Our general comments about the rent reduction process from our personal experience are that our tenants were able to function within rent control as it exists because we are well organized and we're well supported by our

members, but we may not have won if it hadn't been for our lawyer. Our owner was represented by two lawyers, their accounting staff, their property manager. Though we documented carefully and videotaped our building and had many tenants support us, without our lawyer's thorough knowledge of the laws and technical terms, we would have been at a distinct disadvantage.

The protection for our tenants' association lies within the Rent Control Act, and without that protection I am afraid that owners would harass the leaders and members of tenants' associations. Many owners have an adversarial manner in referring to our associations. Our own owner refuses to even allow us to meet in the common areas of our building, although we pay for rent for all the common areas of our building and some of our seniors can't get to meetings out of our building.

Superintendents are a prime source of most of the day-to-day problems in apartments. Superintendents who maintain large buildings with complicated heating, plumbing and electrical elevator services and are responsible for the health and safety of hundreds of people, particularly in emergencies such as fires, power failures and accidents, are not required by law to have any special skills or training. Large apartments need skilled superintendents on duty at all times. Firefighters need superintendents who know their tenants, who have a master key and can assist in cases of fire. When tenants are trapped in an elevator, service people need keys to equipment rooms.

Our tenants were fortunate that the services of our former superintendent were terminated in September 1995. Since that time, we've had a competent new superintendent who's made every effort to perform regular maintenance duties. He communicates well with our tenants and we are cooperating with him. The general maintenance of our building has improved significantly and it's because our superintendent is doing his job conscientiously.

Our recommendation therefore is that a certified training course be developed to teach superintendents basic skills, cleaning methods, plumbing, heating, emergency planning, record-keeping and communication with tenants, and that legislation should be passed requiring that a certified superintendent must be on the premises of large buildings at all times.

#### 1410

Maintenance is definitely the responsibility of both owners and tenants. New Directions says that many tenants are living in buildings that desperately need maintenance. Why? The dirt, garbage, vermin, sewer smells, worn rugs, peeling paint and things of that nature in buildings are evidence that some landlords don't care about their buildings, don't provide competent superintendents and do not monitor their buildings. Obviously they are not spending the 2% for maintenance. Regular application of soap and water, wax and polish, garbage removal, vacuuming the floors, paint touch-ups and minor repairs are not expensive and are basic necessities for any building's maintenance and must be done by landlords and tenants alike.

Why don't landlords evict bad tenants? The Landlord and Tenant Act was explained to you. We can do that



easily in our community, yet some owners continue to rent to repeat offenders who vandalize their buildings, harass and disturb other tenants. Don't our owners care? Don't they want to protect the quality of their investments, or is this a calculated plan to let the building deteriorate and then ask for a rent increase above guidelines?

Communication and individual tenant negotiation with landlords: The Landlord and Tenant Act requires that the legal name and address of the apartment owner be posted somewhere that can be easily seen. That's a basic requirement, yet it's seldom enforced. Many tenants can't even find out who owns their building, yet New Directions say a tenant should sit down with his landlord, negotiate the work to be done, sign an agreement for a rent increase to cover the costs, with no Ministry of Housing approval. Vulnerable tenants don't understand the responsibilities of owners and they're going to sign things unwittingly. Tenants cannot and should not negotiate rent increases in this way.

The ministry proposes more maintenance enforcement by property standards officers and no rent freezing by the ministry. Our association has had limited success with property standards, and if the city takes on more work, it's going to be more staff and more funding, and I don't know that they will do that. The Ministry of Housing's penalty for freezing rents has been effective against owners. The ministry staff is very helpful; they're knowledgeable in our specific concerns. If our local office is closed and replaced by an 800 telephone number and a tape in Toronto, that's going to be a great loss to our tenants.

New Directions proposes the repeal of all the tenant legislation. Why? Rent control and housing protection have existed in some form since 1975, so the legislation is needed and it's accepted. The current legislation does provide tenants with relatively good protection against unfair double-digit rents and eviction and harassment. It does protect tenants who form associations, does provide the methods for reasonable owners to evict bad tenants and does provide a 2% increase and 3% for major capital expenditures or extraordinary costs. So why repeal them?

Our recommendation is that you update and consolidate the current legislation and develop flexible legislation which recognizes and addresses specifically the differing needs of large and small owners and the differing problems in different communities. Toronto and Kitchener are entirely different. Then enforce the legislation with some common sense.

New Directions says that sitting tenants will be protected by rent controls. Some can stay in their units, but many have to move because of family needs, employment changes, physical ability. They're going to be penalized. Obviously, with this financial advantage, landlords will look for every excuse to move tenants and the peace and security of our tenants is going to be in question. Sitting tenants are going to be sitting ducks.

New Directions would eliminate the rent registry. The rent registry provides essential information and must not be eliminated. That's the only way we can check to find out what the maximum rent allowable is for our units,

what we should pay, what the previous tenant paid and what the other tenants are paying in the building for a basis of comparison.

New Directions says that landlords have no incentive to invest in their buildings, which are becoming rundown. What are they going to do with these older buildings that are more and more run down? Are they going to be too expensive to repair? Should we as tenants just abandon them and move to newer buildings that the landlord can ultimately again let become more and more run down? Will older buildings be torn down for tax losses or will they be allowed to deteriorate and provide only the housing that the most desperate would live in? Surely that's not the intent.

Our recommendation is that more effort should be made to build a new supply of reasonably priced basic units which are safe and quiet, which have a stove and refrigerator and adequate parking, and which feature improvement of design, which will allow for easy access to pipes and wiring for repairs and thus reduce maintenance cost. Most new buildings feature swimming pools, exercise rooms, four or five appliances and many other features that increase the cost of construction and the maintenance for those buildings. Expensive units will not increase the rental stock for the average tenant. Only the wealthy need apply.

**The Chair:** I'd just let you know you're on your last few minutes.

**Mrs Pappert:** Okay. I will close by giving a couple of questions I would like answered by the Ministry of Housing. If the main purpose is to provide incentive for builders because there's a shortage of units, why is the government facilitating more condominium conversions in its proposal? Condominium conversions will further reduce apartments available for average tenants.

Why do tenants in apartments pay property tax, which is included in their rent, and have to pay three to four times more than the property taxes for residential owners? Apparently, apartments pay 7% GST and condominiums only 4.5% and that cost is passed on to us. If the government did equalize property tax and GST, what requirements would they put into place to make sure the tenants would get comparable rent reductions if they reduce it for the owners?

Finally, our recommendation is that there are probably some situations that are grossly inequitable and we believe that some reasonable mechanism should be put in place for individual corrections for landlords and tenants.

To summarize our submission, it isn't broken, it could be improved, but don't repeal it without providing something better. Bad owners won't use more money to maintain their buildings and good owners already have the tools they need for reasonable increases. Thank you.

**The Chair:** Thank you very much for your presentation. We appreciate your coming forward and giving us your input.

**Mrs Pappert:** Can I make one comment? You had a lady, Mrs Sibal, on September 23 from the Scarborough tenants. She had some excellent ideas for maintenance proposals, and I hope you read her things very carefully.

**The Chair:** Thank you very much.



1420

### CAMBRIDGE HOUSING ACCESS LUTHERWOOD HOUSING

**The Chair:** Our next presenter is the Cambridge Housing Access, Cathy Werner, a counsellor, and Maxine Brake-Cheater. Good afternoon. Welcome to our committee. The floor is yours.

**Ms Maxine Brake-Cheater:** Good afternoon. My name is Maxine Brake-Cheater, and this is Cathy Werner. Between the two of us, Cambridge Housing Access and Lutherwood Housing, we have served over 700 tenants in the last year who were looking for housing. We're now former housing counsellors for that program.

I am concerned that the government's proposals will hurt the tenants of the Waterloo region. The two issues I would like to address are affordability and availability.

I should like to speak against any changes in legislation that could result in higher costs of housing. We have had tenants and landlords indicate here today that, even though they may be modest, there will be increases with the loss of rent control. Since 1995, the government has halted the construction of non-profit housing units, reduced shelter allowances, closed housing registries and has indicated that it intends to dismantle our current housing legislation and sell Ontario Housing Corp units. These changes have been too fast and too severe. Families are suffering from these changes, and they cannot cope with the reduction in income or the threat of the loss of their homes. They have given up hope of ever living any other way except from bill to bill, let alone from paycheque to paycheque.

The cost of shelter in the Waterloo region is the single most stressful financial commitment for low-income families. The cost of housing for families living in poverty causes more stress than the combined costs of the other basic necessities of food and clothing. This has been documented time and time again in our participant case files. The reasons for moving invariably include affordability. We have participants who are spending 86% of their take-home income to keep a roof over their head.

All across the region and the province of Ontario, housing costs far exceed what families can afford. Homeowners and tenants alike are finding it difficult to stay afloat financially. Our program has seen a steady increase in the number of families who have to walk away from their homes due to bankruptcy or inability to pay rent and utilities. Any further increase in rent for low-income families will result in increased homelessness, family breakdowns and family violence, as well as the spinoff effects of poor nutrition and poor school performance of our children. Children living in poverty in our region are already living deprived lives because the parents are forced to use whatever money they can muster to pay for their rent and utilities.

I know families whose lives are constantly disrupted because they have to move to find something cheaper. These moves are not the result of poor money management but rather of the high cost of rent and utilities. One of the first things a housing counsellor examines when assisting a person or family looking for housing is the monthly income. We look at the fixed expenses and the

income and start our housing search for units within that defined budget. Too often, we've found that adequate and affordable housing is not available with this amount.

If the housing counsellor identified multiple barriers — including discrimination due to source of income, language or literacy — besides financial, it became apparent that the private market may not be the best choice for us to work in. Because these same barriers affect a person's job search, it was anticipated that the family would have a fixed low income for more than a year, and we would therefore recommend rent-geared-to-income housing as an option for permanent housing.

Since 1989 Cambridge has had over 1,000 rent-geared-to-income units added to the housing stock. Through our coordinated access we were able to refer families in this disadvantaged position. However, since July 1995 any hope of finding affordable housing in a non-profit housing complex was diminished when these developments were halted. Wait lists for RGI units are so long that they are no longer a realistic solution for families in need of immediate or near-future housing. Cambridge Non-Profit has nearly 700 families and seniors waiting, and it will be at least a five-year wait list. Kitchener Housing has an even longer wait list and is closer to a 10-year wait for a unit.

For the last year as housing counsellors we have relied almost exclusively on the private market for permanent housing. We have found that landlords have been understanding in instances where tenants are unable to pay the last month's rent, but the bottom line is whether the individual or family can afford the cost of the unit over the long term. We review the fixed monthly costs, and too often the expenses exceed the revenue and we therefore have difficulty recommending that a family take the unit. The lack of ability to pay is a real problem for many of the people that Cambridge Housing Access and Lutherwood Housing have served.

The government has said that non-profit housing and rent control have deterred landlords from building. This is not the case in the Waterloo region, where the region's largest landlord has been quoted as saying that the proposed changes would not encourage him to build more units.

In the tenant protection legislation summary put out by the communications branch under "What Works...and Won't Change," it states that there will still be rent controls and annual set limits, yet the unabridged document states that the current rent guideline formula will be retained just for sitting tenants.

This is not acceptable. It puts unreasonable pressure on tenants that their housing is insecure, and it will encourage landlords to default on repair and maintenance or, worse, harass the current tenant to leave. The current legislation does allow for a 2% increase for maintenance and repairs plus the cost-of-living increase. We need rent control. The current legal increases are already more than most salaries and pensions increase annually. If the government gets rid of rent control, tenants will not be able to cope with the expected increases in rent. Tenants should be given similar choices to homeowners, who can set their monthly fixed payments for up to five years.



In October, social assistance recipients had a 21.6% cut in shelter allowance. A single person now receives \$325 a month for shelter; a single parent with a child receives \$511 for shelter. Local housing registries will show that there is very little choice for one- and two-bedroom apartments in this price range. In a survey of rental accommodations of three local papers over a period of two months this summer, the average of a one-bedroom is \$441 and a two-bedroom is \$617. If this individual is to spend 30% of their budget on housing, they would need to be earning or have a fixed income of \$1,455 monthly; for a single parent with one child in a two-bedroom apartment, he or she needs to be earning \$13.75 per hour. Our experience is that the current employment market is geared towards part-time and offers minimum wage.

Young adults, single parents and seniors make up the majority of our tenants. With the disappearance of freedom of choice, tenants will be forced to stay for fear of higher rent in the next unit. Even if they continue to stay in their units as sitting tenants, they will continue to be faced with higher rent increases than the current law allows. Besides the 2.8% increase annually, it's proposed in this legislation that a further 4% can be added for capital expenditures, plus increases in utilities and taxes can legally be passed on to tenants. For example, a senior on a fixed income of \$900 a month paying \$600 in rent can potentially have an increase of \$54 per month under this proposal. How will seniors cope with such increases on fixed incomes? They will do without proper nutrition, medical attention and such necessities as a phone and transportation.

The cost of housing is already causing incredible hardship for thousands of singles and families in this region. The region's food bank has confirmed that their demand increased by 40% by the end of May and is expected to go to 50% by the end of the year. The Salvation Army in Cambridge has had over 50% of their clients already collect their quota of four emergency hampers for the year. As one person so succinctly said, "I hardly exist."

Ideally, we would all love to spend 30% of our gross income towards the cost of housing. But for low-income families, 65% of the net income is what's being spent on housing, with absolutely no hope of relief. If a family is fortunate enough to acquire full-time employment at \$6.85 per hour, the take-home pay would be \$930 a month. In order to keep that job, they must have access to a phone and transportation to and from work, at an approximate cost of between \$100 and \$125 per month. Rent for a one-bedroom will average \$475, leaving a total of \$80 per week for food, clothing, personal hygiene and medical needs. The scenario is even worse for a single person on assistance. Their net income is \$520 per month, leaving less than \$20 per week for food and personal needs to survive.

This is all happening at a time when unemployment continues to rise. If we lose rent control, tenants will live in constant fear of increases. Fluctuation in housing costs make it difficult to balance family budgets.

Loss of rent control will reduce the mobility of our citizens to seek out new quarters, move closer to their

work, accommodate new life circumstances or leave abusive family relationships. They will fear giving notice because they will not be able to find an affordable unit. People must be able to move around in our towns and cities without the threat of diminished housing opportunities.

This proposed vacancy decontrol will have a very negative effect on landlord-tenant relations. The government has admitted that the proposal will lead to harassment of tenants by landlords. The government is proposing to set up an anti-harassment unit to deal with the problem it will be creating. This means a new bureaucracy. The reality is, however, that most tenants harassed out of their apartments won't spend the time filing anti-harassment forms. In the last four months in the Waterloo region in the courts we've received one tenant complaint. Tenants feel intimidated by landlords and/or cannot speak up for themselves. They simply spend their time looking for a new apartment in the now decontrolled market. Allowing the market to set rents on vacant units will simply force families to do without the necessities of food, clothing, transportation and telephones. Unless members of this panel have been in a position where there is no money to pay your bills, you cannot expect to understand the reality that many of our citizens are living.

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Unfortunately, tenants were not given proper information about these proposed changes and were certainly not given enough time to respond. The announcement came out late in June and by the end of August there was no opportunity to respond to the proposed changes. Again, these sweeping changes are causing severe hardship on Ontario residents.

Secondly, the availability of affordable housing stock is decreasing. As families get behind in rent they will have no choice but to give notice. As they vacate, this proposed legislation will allow the landlord to freely charge whatever he or she can get. On the average, 25% of the units turn over each year. So we can expect that within a five-year period 70% of the rental stock will be affected by the vacancy decontrol, resulting in more people not being able to pay their rent. The housing registry strives to list units that are priced within the participants' means, but the recent survey demonstrated that fewer units are available than a year ago. The cost of housing continues to increase as families' incomes continue to decrease.

There will always be a percentage of our population that will require support services to meet their personal needs. Cambridge Housing Access has helped 1,177 families over the last six years. In many cases our participants have multiple barriers which the housing counsellor was able to break down. In many instances, they required support and guidance for three to six months, but eventually they secured adequate housing and went on to find employment and experience a more rewarding existence. Those in need in the Waterloo region have benefited greatly from past supports financed by the government such as the community partners program. I fear that the elimination of these supports in the Waterloo region will result in greater social problems for our community.



The tenant protection legislation recommends that demolition, major renovations and conversions of rental buildings to condominiums or cooperatives will no longer require municipal approval. Currently, the Rental Housing Protection Act is the only means tenants have to voice their concerns on changes that affect the residential status of their housing. I am most concerned that many tenants do not have the means or desire to own their own accommodation, and turning apartments into condominiums forces sitting tenants to move unnecessarily and severely reduces available housing stock. If this act is abolished, seniors in particular who found housing they consider permanent will live in constant fear that their housing can be taken away from them with a minimum notice. This does not protect the tenant at all. Home owners and tenants are both taxpayers and should be valued equally. This value should be expressed in the government's legislation so that tenants are indeed protected.

The vacancy rate that's given out by CMHC only gives a partial picture of the true housing availability. Homeless individuals are not included in the rate and neither are the second-generation families who have been forced to move back with their parents because they cannot afford to pay their rent. Our statistics indicate that the number of people who leave or are evicted due to non-payment of rent or utilities is going to increase. If rents are increased, as we expect they will with this proposed legislation, what is the government's plan to house the homeless and those families who are living in stressful, overcrowded conditions? And what will happen as the population increases and the landlords still have not built new units?

Thank you, and I'd like Cathy to take a moment to give you a true story of a participant case that would be certainly exemplary of the participants we serve.

**Ms Cathy Werner:** Good afternoon. I would like to tell you about a day in the life of someone who has been seriously affected by the high cost of apartment rentals in her struggle to maintain a decent standard of living. Her lifestyle is not unlike many others in her situation. She is in some ways better off because of her creativity and her desire to live. This is her story. She was not able to make it here, by the way, today. We expected her to be here.

She is a middle-aged woman who is living on a social assistance cheque of \$520 per month. She is currently paying \$450 per month for her rent. She pays for electric heat in the winter months. Because of these basic living expenses, she is left without money for food, hygiene and other necessary products. She does not have money for transportation. You might be wondering at this point how she is living. As I mentioned, she is a highly creative person. She volunteers at various outreach agencies and is able to outfit her apartment and clothe herself through the donations given at the agencies. Sometimes she is able to take clothing and barter it for bus fare. The bus fare enables her to get to the food distribution centre to receive a food hamper. Because of her special diet restrictions, she's unable to eat some of the foods offered to her. She takes the food she cannot use and barter it for something she needs, like shampoo or boots for the winter. She visits a soup kitchen for a meal and she stays to receive leftover doughnuts to eat over the weekend. The next day she awakens to find herself in the same situation.

Yes, she has chosen to live in an apartment that leaves her with about \$17 a week to pay for food, hydro and other basic needs. She has lived in places for less money but she's refused to go back to picking cockroaches out of her cereal boxes and tolerating harassments from a slum landlord who refuses to fix leaking taps or faulty wiring.

Should we really expect her to live any differently than we do? Her days are spent literally on survival. That's something we all take for granted. She does not have time to look for meaningful employment. When the new tenant protection legislation is passed, how can we expect her to negotiate a rent increase with the landlord because the eight-year-old carpet needs to be replaced? How can we expect her to move back to a place where we wouldn't want to live ourselves? This woman is poor. She's not stupid and she's not lazy. Every day she fights for a minimal but decent standard of living. Removing rent control legislation will only create more of a hardship for this woman and for many others like her in her situation.

**The Chair:** Thank you. We've got just about a minute left. Did you have any final comment that either of you wanted to make?

**Ms Brake-Cheater:** I'd like to leave you with the questions. Cathy?

**Ms Werner:** No, thank you.

**The Chair:** Thank you very much. We do appreciate your input here this afternoon.

PETER MILLER

**The Chair:** Our next presenter is Peter Miller. Good afternoon, Mr Miller. Welcome to our committee. Should you allow some time for questions in your 20 minutes, they would begin with the members of the government. The floor is yours, sir.

**Mr Peter Miller:** I think I will let you give some questions. You're probably hankering to have something to say, having been cut off for over an hour. I've presented a paper which has been given to the clerk and you can read through it. I'm not going to read it, because it would take too long and then there would be no questions. I will just start out by stating that when I read the discussion paper presented by the government my first reaction was, this isn't a change of anything and will not accomplish any of the aims that the government has stated it wishes to achieve.

The problem I see with the legislation is that it does not recognize the fact that a landlord can make a profit. It seems that profit is a dirty word. Everything else in this society is built on profit and it is rewarded for profit, so why should not landlords be? If you control the rent, you also should be controlling the costs the landlord incurs, but that is not done. The landlord is at the mercy of municipal tax reassessments, utility increases, tradesmen's rates going up, damages done by tenants, and he has no recourse to get the extra costs back in rent increases.

The current legislation, the Rent Control Act, is a very negative piece of legislation when you approach it from a landlord's point of view. When you read through part I, which is the rent control provision, it seems that every



time a landlord turns around he cannot get a rent increase or he will have his rents reduced. There is no carrot in there at all to reward a good landlord who's trying to do something with his building that he can get some more money to do that. It just seems that, "You can't do anything and we expect you to provide a palace at rates that would only subsidize a shack."

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The procedure in the act is also such that if a landlord makes a mistake, he's back to square one and loses whatever he might have had. The only upturn at the present time is the maximum rent concept, which allows the rents to creep up, even if it is not charged. If the economy turns around and the landlord feels he can charge more and he is not charging the maximum, he can bump his rent to the maximum rent provided by the legislation.

I think that is the background we have to look at when we examine the new proposals. My view is that the new proposals are not a light at the end of the tunnel — just another bend in the tunnel with more of the same as in the past.

It is conceded there are unscrupulous persons in all sectors of society, and abrupt termination of rent control could lead to certain injustices. Therefore, there need to be phase-ins to let the market rule the rental housing industry. That is for the committee to consider and to review, because dropping rent controls all of a sudden may not do too much, at least in the Kitchener-Waterloo area. The rents cannot be raised because many landlords, I know, are not even charging maximum rents. If they try to bump the rent, the tenants give notice and they have a bunch of empty apartments.

The statistics that were included in the discussion paper seem to show that there are many units in the province renting at below maximum rent. Any attempt to obtain such maximum rent will send the tenants elsewhere.

The proposal to decontrol rents on a change in tenure is an illusion. If you negotiate a new rent with a tenant in a bad economy, the rent is low and then it is frozen there and it cannot be raised other than by the guideline until that tenant vacates. Existing tenants who had their rents reduced to retain them are liable to have their rent raised to the maximum at the next appropriate increase date. This is a benefit that landlords are going to lose with the proposals.

Caps on rent increases seem to be repugnant in a free-market society because there is no cap on the costs to a landlord.

Dealing with the capital expenditure in the proposal, it is my view that there should be no special rules made and that industry norms be accepted. The idea is to have less bureaucracy, and it is my feeling there are enough rules and guidelines out there that can be adopted to serve any purposes.

Inadequate maintenance of rental buildings is a problem with no easy solution. The issue that needs to be addressed is, where does the money come from to do maintenance? May it be required to increase the rent to give the landlord the money to do it, or do you reduce the rent so he has less money to do the maintenance?

There is no easy answer to that, and certain landlords do have deep pockets; others don't. If they don't have the money, how can they do what is required?

The tenants are entitled to decent accommodation, and I submit that the Landlord and Tenant Act provides adequate safeguards in that regard. I've personally taken a number of landlords to court for providing substandard accommodation and obtained substantial results. The only benefit of a court process is that once the unit is back to good condition, the rent goes back to where it should be. The rent control proposals reduce the rent and leave it there, never to go back up. There's no incentive for the landlord to do anything to get his rent up.

Making the violation of a property standard an immediate offence also seems to fly in the face of justice. Why should a landlord be charged for something that he does not know? This leads itself to tenant abuse, where tenants refuse to let landlords in and then they call the inspector and say, "Aha, the landlord hasn't fixed the peeling paint in my bathroom which I haven't told him about."

#### *Interruption.*

**Mr Miller:** I hear some laughs in the back. There are bad landlords and good landlords, and I think the committee has generally been hearing about the bad ones. The good ones have contented tenants and they are not complaining too much.

The other thing is when tenants get their backs up, they insist on the 24-hour notice requirements, which puts a crimp in the landlord trying to get tradesmen in at the tenants' convenience to effect repairs. The committee should probably consider what homeowners do. If you've got a problem in the house, you call a tradesman and he says, "I'll be there when I get there." Some guys are nice and show up as required; others are late or they have other emergencies.

Increasing the fines can go both ways, depending on your philosophy. If you fine a landlord, are you taking the money away that is needed for repairs, or are you really punishing him because he's got such a big bank account? We don't know what happens.

Putting in provincial inspectors for maintenance probably adds more bureaucrats, and I submit there are enough local building and property standards inspectors around to do the job. If there is some help needed, the legislation can empower them to do more things.

You've probably heard of all the bad landlords who don't repair. The committee might consider some legislation to do what the municipalities do in their snow bylaws. If the repairs aren't done or the landlord doesn't come up with a plan to do the repairs in short order, then the municipality should step in, do the work and add it to the tax bill. The job is done and the money will be paid as a first charge on the property. Again, fining a landlord or sending him to jail is probably counterproductive and gets an attitude problem.

The proposals also deal with the Landlord and Tenant Act, and part IV of the current act deals with residential tenancies. I would submit that locally the system is quite good but it's still drawn out. It takes at least five weeks from the initial notice to a tenant for non-payment of rent before the sheriff escorts him out the door. If the tenant



has paid last month's rent, the landlord is out at least one month's rent, or probably two months' rent, because if he gets a decent tenant, that tenant will give proper notice at his prior residence. He will evict the tenant and have it vacant for two months before the new, good tenant moves in. There might be some thought given to adding some legislation to charge the tenants who are being evicted with this loss of rent, which might jog their memories or convince them to be more fiscally responsible.

One other possibility would be to consider moving the enforcement of the residential part of the Landlord and Tenant Act to Small Claims Court. Most of the claims under the act are probably for less than \$6,000 in rent. If it should still stay in the General Division, maybe there should be a provision to register judgements in Small Claims Court to make it easier for enforcement of money judgements. The system in the higher courts is too complex for the unsophisticated tenant or landlord.

Reducing the time frame is a problem. The only way I could see is having the appeal period and the sheriff's eviction period running concurrently, so if the tenant doesn't do anything in the seven days that are currently required, then the sheriff puts them out, again subject to manpower constraints at the court office.

The privacy provisions are in need of some clarification. I would suggest that making some exceptions for permitting tradesmen to enter when they arrive to fix items should be enshrined in the legislation. Nowadays, if the tenant is mad at the landlord, he says: "No, you can't come in. You do it at my convenience next week." That doesn't help the repair of the building or go for good relations. The other suggestions in the discussion paper are valid.

The harassment area can be a minefield, especially with the personality conflicts. The committee needs to consider the level playing field for both the tenant and landlord so that it does not end up that the tenant gets subsidized in his fight and the landlord has to pay for his own representation. If there is going to be something inequitable, maybe there should be cost consequences to either the landlord or the tenant for ill-founded complaints or defences.

Restraining orders are completely bad, because the landlord has to maintain the building. If he's restrained from dealing with the tenant, you've got the problem of how does he get in there to fix things. If the tenant is unscrupulous, he will charge the landlord for breaching an order. There's no easy answer to that.

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Interest on rent deposits: The 6% should probably be reduced, because nobody these days can get 6% by sticking the money in the bank in any form. Tying it to standard bank account rates might be a solution. There should also be a provision that the interest can be accumulated by the landlord and added to the deposit to cover future rent increases. Whether it's simple interest or compounded is an opinion decision.

A dispute resolution system is not really needed. We have the courts, and I think they do a pretty good job. We don't know what any new body would do. We know what type of time frames the courts use. The adjudicators and such need to be appointed. We don't know where

they're coming from, where the hearings will be and how their actions are to be appealed if one is not satisfied. Here, again, it might be useful to have the dispute resolution done by a simple application, either in the Small Claims Court under the Landlord and Tenant Act or using existing court processes with some extra funding in that area, which would help the enforcement of the act and also might be useful in clearing court backlogs.

Security of tenure and conversions: The Rental Housing Protection Act and related legislation should be repealed. I think it is a fundamental idea of any free and democratic society that land owners should be able to determine what to do with their buildings and investments, free from government control.

The committee has probably heard of fire traps and slums. Maybe those buildings need to be demolished from a business perspective because it's cheaper to tear down and rebuild than try to fix what is in very poor shape. It seems the rental housing area is the only segment of the economy where people are told what to do with their money. Anybody else can do what they want. Private industry can pack up and leave, but landlords can't pack up their buildings.

The statistics attached to the discussion paper would seem to say that new construction needs rents at such a level that tenants will not pay them, because the general amount of rents currently being charged is less than an owner would need to make a new building economically viable.

I would suggest that the current part IV of the Landlord and Tenant Act has quite adequate provisions for hauling a slumlord into the courts for a rent reduction. If the landlord then straightens up and repairs it, he gets back to the rent level he had before he let his building deteriorate.

It is my view that the rental housing industry needs to be streamlined and left again to landlords and tenants to strike their own deals. Some protection, however, is also needed against unscrupulous landlords and tenants.

Those will be my submissions. The paper I've presented amplifies most of those comments.

**Mr Maves:** You prefaced your remarks on the dispute resolution system by saying you didn't think any was necessary. But we've heard from both sides, landlords and tenants, how cases can be drawn out for several months. Landlords would just keep using the system to not have to fix their buildings; tenants would keep using the system to avoid paying rent. What specifically can we do to reduce that and keep the existing system?

**Mr Miller:** One thing is that the act should require that if rent is not being paid, it be paid into court before any defence can be entered. I've found that once you have to put up money a lot of disputes evaporate. If you don't have to pay, you can fight. If you have to pay, "Well, maybe I'll consider not fighting." Also, fast-tracking it or saying that this is where you get into court, you get your hearing and it's done. Like I said before, if repairs aren't done, maybe the municipality should step in, do the repairs and charge them to the tax bill. That gets the job done and there's no argument.

**Mr Curling:** I like what you said, and thank you for your presentation. There's an old commercial that says,



"Pay me now or pay me later." The fact is that if you have a car and you don't change the oil, later on you may have to fix the transmission. Just on that point, you said, "What is so bad about making a profit?" Then you said: "The profit is set by the market. Some people make a handsome profit, others lose their shirt. The market determines which scenario occurs." "If he does not have a chance to make a profit and build a surplus for upgrades or major replacement for things like a roof, furnace and parking lot, then the landlord has real problems."

Inside the guideline that they get, they do get the money to make that maintenance. Therefore, what has happened over the years is an accumulation of about \$10 billion — you hear this all the time — of repairs to be done that are not being done. In fact, if they had done that, maybe we wouldn't have that problem today. But profits are there in that business; a matter of greed anyhow.

**Mr Miller:** I would answer that one by saying that the profit is there but the profit is also used by the investor or landlord for his other living expenses. It's not just there to be spent on the building and not used for anything else.

**Mr Marchese:** I've got a problem with that statement and I want to preface it by another remark. Mr Wettlaufer asked Mr Lampert about profitability in the business and he quoted some study that I often quote which says there was a 10% annual profit from the buildings — not average, but annual — and then he asked, "Is that a correct study?" and all that. Mr Lampert said that it wasn't a very good study because it looked at only 20 buildings. He rambled on around everything except to say whether or not they were doing well. It was an easy question.

We believe the industry is doing okay. Whether it's 10% a year — let's say it's wrong; maybe it's 5% a year — we think they're doing okay. We are not saying "profit" is a dirty word. Nobody is saying that — certainly not they. Even the tenants are saying you're entitled to a profit, but you get the 2% increase. The Estates Tenants' Association says that's what they get. They're not even allowed to see whether or not that is being spent. They believe it's not being spent. What do you say to that?

**Mr Miller:** What I say is that it may be allowed but the landlord may need that money for his own living expenses.

**Mr Marchese:** Not for the maintenance of the building? What about the building?

**The Chair:** Thank you very much, Mr Miller. We appreciate your being here this afternoon and giving us your input.

#### BURNS PROUDFOOT

**The Chair:** Out next presenter is Burns Proudfoot. Good afternoon, sir. Welcome to our committee.

**Mr Burns Proudfoot:** Mr Chairman, members of the committee, my name is Burns Proudfoot. I'm a tenant.

It is right and meet that we are here in Kitchener's Valhalla, set astride this alley like a colossus, to discuss

tenant protection, for it was here in this very alley, Hall's Lane, that families saw their homes lost and their lives blighted by the acts of unprincipled men. The time was 1933.

This core was a Potemkin village. Behind the façade of King Street ran the back slum Hall's Lane. It always stunk then from the city gasworks just back of it, but the people here didn't mind that much. They lived in cold-water flats and converted sheds and tenements. There was a real class distinction then. The mayor talked of "the two classes that we serve." The place was not as it is now. Mr Wilfrid Bitzer, the West German consul here for many years, was the Dun and Bradstreet man here in charge of rating the factory owners on the basis of character, capacity and capital in the 1930s. He described the German establishment here as "the old feudal system" with "employer-owned houses" and employees with "not much future." Other employers owned their workers' mortgages.

During the bitter winter of 1933, unemployment climbed to a dangerous level. Close to 4,500 persons, or 15% of the city, were dependent upon relief for their existence. The provincial relief schedule was found to be inadequate for survival in Kitchener because of substantially higher rents here. A dispute between landlords, the provincial relief authorities and the local relief board arose over rent payments. Provincial withdrawal of financial support of rent payments was threatened if Kitchener did not conform to the formula. The landlords threatened massive midwinter evictions if rents decreased one cent. There was no legislation to prevent this.

Early in January 1933 a decrease of 10% was made in the relief budget of each family in Hall's Lane and other enclaves of families without work. There were reports of immigrant girls here working in local factories for as little as \$3 a week. The chairman of the relief administration said that no one would be allowed to starve. The single aliens and the married aliens without children and without jobs were deported, even political refugees, to save money in the Kitchener relief fund. The other single men were transported to the north for the same reason. The situation was becoming so desperate that many families sold their basic furniture in order to buy food.

#### 1500

Steve and Josephine Slusarik and their two daughters were evicted from their cold-water flat at 176 Hall's Lane because Steve could no longer afford the rent. The place the city moved them to was, in the words of Mr Hudson to Kitchener city council, "unfit for habitation." The Slusariks, like the other families in Hall's Lane, were self-reliant, honest, hardworking people who raised fine children with happy memories of Hall's Lane and lifelong friendships with the other children from here.

A comment on the Lampert report: Mr Greg Lampert in his report for you on how to encourage construction of rental housing etc advises you on crafting new legislation and takes great pains to ignore the human factor — tenants. He does not consult a single tenant, tenant organization, tenant brief or tenant publication.

Mr Lampert advises you to in effect give special help to immigrant developers, builders and landlords through immigrant investor loans. Based on many years as a



tenant of immigrant or offshore people, I would advise extreme caution here. You should take steps to ensure that these investors are men and women of principle prepared to abide by our laws and our justice system. In my own case the developer, builder and original landlord of the row housing where I live is Helmut Oberlander, who is reported to have knowingly concealed his membership in the German Sicherheitspolizei and SD and Einsatzkommando 10A, liquidation task force, a mobile killing unit that executed hundreds of thousands of people — men, women, children, infants. This person is in hiding now. The present owners are three people in Munich who vex and harass tenant leaders and other tenants here without mercy.

Harassment of tenants: Profiteers, slumlords and their associates have been harassing tenants for a long time. It would be best if you would clean up the massive backlog of injustices here rather than creating more. I find your New Directions paper to be a Clockwork Orange: daft, indigestible, unfixable. It would be best if you would strengthen the Rent Control Act, not maim it by making sitting tenants a special target for landlord harassment, classic harassment being eviction.

In a report by Carol Goodwin in the March 29, 1993, edition of the Kitchener-Waterloo Record, Mr Tony Keller, at a meeting held right across the street in a Market Square boardroom, painted a picture in the minds of the downtown landlords there. He portrayed tenants as criminals. He advised landlords on how to fight "scumbag" tenants, that landlords should change locks and wait with a gun. "Don't be hamstrung by the nicey-nicey Landlord and Tenant Act that was designed by people who most likely believed in Marquis of Queensbury rules," he said. Keller said landlords may need physical courage to ignore the act in order to get rid of undesirable tenants. "Be innovative and aggressive with the problem," he said. To get around the Trespass to Property Act, forms were distributed to fill out that authorize police to evict undesirable tenants. Curtis Rutt suggested that a landlord could enter a tenant's home on the pretence of doing maintenance work and place hidden recording devices in strategic places. Mr Keller is a member of the Law Society of Upper Canada. Mr Rutt is a member of the local police force. What are the views of this committee on the use of deadly force against tenants?

Landlords should not be permitted to be above the law. A recent report from the beautiful state of New Jersey records that a landlord was ordered by the municipal judge to serve part of a 100-day sentence under house arrest in his own run-down apartment building at 39 Lincoln Park in Newark. The inspection manager in Newark said that the sentence sends a message that the city is serious about providing its residents with decent affordable housing.

Mobile homes and mobile home parks:

(1) The Land Lease Statute Law Amendment Act, 1994, subsection 125.2(1), holds that a landlord shall not prevent a tenant who owns a mobile home that is situated in a mobile home park from placing on the mobile home or the residential premises a sign that a home is for sale. Subsection 125.2(2) prohibits signs in certain cases, such as if there is a reasonable alternative.

Selling a home is quite difficult enough. Signs, I suggest, should be permitted in every case on the mobile home or on the mobile home's leased land — regular, full-sized real estate agents' solid signs on posts, if that is what the mobile home owner wants. Page 13 of New Directions uses the words "bulletin board" and "signs in the windows of their homes." These are not new rights but are the loss of the present rights and practices.

(2) Infrastructure upgrades should be anticipated by the landlord and the costs and profits should be his at the present level.

(3) New Directions fails to address the issue of religious freedom and freedom of worship in mobile home parks. Why is this? The people in Ontario have an historic right to freedom of worship. Our small pioneer villages were permitted to have a church or churches. Mobile home parks are often small but can become the new villages for many.

What are the views of the committee on mobile home churches? The words "church" and "minister" should be taken to mean the places for people of all religions. Should mobile home churches be permitted or excluded from mobile home parks? Must they be occupied by ministers or can they be vacated while the minister does a circuit of three or four of them? Can they have signs out front giving times of worship? Can they have bingo? Will the land on which they are placed be taxed or tax-free? Can they have traditional or modern church architecture or must they come skulking in like some hydro stations in the city disguised as houses? Should they be permitted in trailer parks with mobile homes? Can mobile home churches be shared with other religions? Who is to decide all this: the landlords or the government? Thank you.

**Mr Curling:** Thank you for the historic overview. It's what you learn on these missions at times. Of course, you put a good face on Kitchener.

Let us understand where we are. I think you have a good grasp of what's happening here. One thing you touched on that I'm extremely concerned about, and I presume it is fate that had Mr Lampert here this morning who confirmed exactly what you've said, that part of this scenario, part of this proposal excluded tenants completely. As a matter of fact, if I interpreted him correctly, I almost felt he said they didn't have any great investment in the development of housing or homes here, that he consulted only investors like landlords and developers. It is the same feeling of the government, because the New Directions paper took the same slant, to consult only the developers.

How do you feel about this? Do you see anywhere in this New Directions package any hope at all of improvement for any sector of tenants?

**Mr Proudfoot:** Mr Curling, I don't see a great amount of hope. As I said, I read the discussion paper thoroughly. I described it as a Clockwork Orange. I don't think it can be properly repaired. I am for making repairs in the Rent Control Act and making improvements, as I made some suggestions, but I think it's seriously flawed in that it ignores people, the tenants who are to live in these places.



**Mr Curling:** The government has created this legislation. They say this is a discussion paper and it will generate the legislation. I presume that people would like to see if they have listened to you and the hundreds of people who have sent deputations. Would you like to have an opportunity to respond to the legislation when it comes out?

**Mr Proudfoot:** Very much so. I find it very difficult to respond to this kind of paper.

**Mr Maves:** Thank you for your presentation. The question I have is about something you brought up right at the end of your presentation that we have not heard anything about. No one has ever said that they tried to get some kind of religious worship or a church or anything on their property and weren't allowed to. I was kind of confused where that came from. Have you had an incident where you wanted to have a church?

**Mr Proudfoot:** No incident. I visited the three main parks in this community, two of which have official mobile home parks: Bingham Park, Kitchener, and north of Waterloo, Martingrove Village. There's another trailer park which is zoned agricultural in Waterloo that has an official policy that it does not have all-year residents, but I checked it out and it does. So there are basically three.

I've asked if there was an interest, and there isn't much. People in mobile home parks in the main don't go to churches and many of them do not feel welcome by city people. It only takes one look and you're never going to go back. This isn't a known demand but it does make sense, and it's your job to plan for the future, I think.

**The Chair:** Thank you very much, Mr Proudfoot. We do appreciate your input here this afternoon.

Is Darrell Novak here? Is Alexandra Lawson here?

We will recess for a short period until one of the next two presenters arrives.

*The committee recessed from 1511 to 1517.*

#### WATERLOO PUBLIC INTEREST RESEARCH GROUP

**The Chair:** Welcome back to our committee. Our next presenter is here representing the Waterloo Public Interest Research Group: Darrell Novak, coordinator. Good afternoon, sir, and welcome.

**Mr Darrell Novak:** Thanks. The Waterloo Public Interest Research Group is a student-funded and -directed organization with a mandate to foster research, education and action on issues affecting our campus, municipal and global communities. Our membership is comprised of over 12,000 undergraduate students at the University of Waterloo.

Today we're focusing on the impact the proposed tenant protection legislation will have on our constituency. There are roughly 10,000 UW students who live off campus. September welcomed students back to an increase in tuition of 19.8% after a summer where the unemployment rate among students returning to school hovered at about 17%. These figures alone should indicate to you the substantial financial burden faced by people who want to improve their education.

The lives of students can be broken down into five general categories: food, shelter, employment, and their social life, all of which affect the final category, their learning environment. Students require housing that is affordable, well maintained and conducive to studying; in other words, reasonably quiet and free from harassment. Their living environment has a profound impact on their ability to do well in school, and as all levels of government have been saying, higher education is a requirement to even have a possibility of employment in today's economy.

Will the proposed legislation improve affordability for students? No. Students are earning less and paying more for tuition, and with the elimination of rent control they will be paying more for housing. This is especially true for UW students, as our school has a very successful co-op system where approximately 3,000 UW students attend school for four months and then leave on a four-month co-op placement.

The provision to permit rent increases without being subject to any form of rent control as units are vacated will have a profound effect on many students, and we're not convinced the market is going to be able to dictate prices that are going to be fair and reasonable and reflective of the type of housing that students are going to have to be living in.

Other proposed changes allow capital expenditure increases capped at 4%. Rent increases related to extraordinary costs won't be capped. There's also the problem of what those extraordinary costs will be, how they will be defined.

**Vacated units:** With students coming and going all the time, often what will happen is somebody will talk about a unit that they're living in and they'll then have a friend move into it. Will that be considered a new tenancy? That will also be exacerbated by requiring that the landlord's permission be gained for subletting, and also that the permission can be refused.

Allowing rent increases even with the non-compliance of property standards is also going to have a detrimental effect on students. Will the proposed legislation ensure that landlords maintain their properties to adequate standards? Unlikely. Lack of maintenance is the most common complaint among students. For those students who use the rent registry, they often find they are paying in excess of the guidelines but they're still living in a dump.

We attempted to get some input from students for this hearing, but school has just begun; students are just returning now. We attempted to get some input over the Internet. We did get some responses. These ones relate mostly to maintenance. One woman sent an e-mail to us saying that their plumbing hadn't been maintained for almost six months and they couldn't even do the laundry without flooding the kitchen. Others talk about appliances that break down and go unrepaired for some time. One student wrote saying that once a water heater broke in February and he didn't fix it for a week. "We had mice living in our kitchen cupboards." After repeated attempts with the landlord, they still were unable to get him to do anything. This is also a landlord who made them sign a document saying they would promise never to sue him.



Of course, their statutory rights can't be infringed upon. However, most students are pretty naïve, so when they're faced with this kind of situation, they'll sign all the documents. Maybe they're not going to get the type of advice they need, so they'll just sign away. Even though they can't sign away their statutory rights, often they don't know this, so they will live under whatever rules a landlord has given to them.

We are encouraged that there's more power going to be given to property standards officers, but we're worried that this may not work. How will the government ensure that there are enough property standards officers in each municipality? Has the government consulted with municipalities on how the legislation will impact on them?

Will the proposed legislation promote housing environments that are conducive to learning? Unlikely. Our off-campus housing office has a database of over 5,000 records advertising units for rent. A large portion of those listings are situations where students are living in the landlord's own house and without a separate entrance. This situation, of course, isn't covered under the current Landlord and Tenant Act, and issues of privacy and interference by landlords are commonplace, another situation where there are many complaints by students.

There's a particular landlord who's known in Waterloo. When a unit becomes vacant, he'll advertise it, and as people come to his place of business he'll hand keys out to them, ask for a \$15 deposit or driver's licence or something, and let them go off to the unit without notifying the current tenants. So people end up going through people's apartments without them even knowing that's happening.

We have a legal resource office on our campus. It's staffed by volunteers. During the past school year there were over 170 complaints. They ranged from repair and maintenance complaints to people complaining about damages, utility deposits that they did not get back, mid-tenancy rental increases, refusal of receipts and copies of leases, no privacy, free access by the landlord, and abuse of existing statutory tenancy protocol, for instance with the ending of a lease. A person signs a lease for a year. It comes towards the end of the year and the landlord says, "Well, you have to move out." Of course, they have a right to stay in that unit beyond that one-year lease.

I think these examples point out how the current legislation is still being abused. Landlords still find ways to go around it, to completely ignore it, and students suffer. They don't know what their rights are. So the proposed legislation I don't think is going to improve things, especially since the details about how the enforcement unit to prevent harassment or to investigate harassment, how that will work — it doesn't seem like the legislation does much to prevent harassment.

In terms of a power dynamic, the reality is that landlords have power over tenants. A landlord can make life hell for a tenant. A tenant can maybe spoil the profits of a landlord, but really when it comes down to their life and living in a space, that can be very much disrupted by a landlord who wants to do that.

The other concern is, how will this spur new housing? I think this sort of single-shot approach isn't going to work, and that's been echoed by various organizations

that represent developers. Simply put, the proposed legislation presents a poor argument for encouraging new affordable housing starts.

One of the keys is better consultation. I don't think this is adequate, just these hearings. At the very least, the larger cities in this province need to conduct comprehensive and meaningful consultations in altering legislation pertaining to rental housing.

Take this hearing as an example. The type of in-depth research that our organization would like to conduct is beyond our means. We have two staff people. We have competing priorities. Our student government also has limited resources and competing responsibilities.

#### 1530

Perhaps the government should contract out and pay people to conduct the type of consultations that are necessary in coming up with an action strategy that is truly balanced, getting much more input in round table discussion, not in this type of intimidating hearings.

It's different maybe for a developer to hire a consultant to review their strategy and to look at what the impact of government legislation is going to be on their business, but what about the tenants' associations? How are they funded? Where are they going to get the money to do that? We operate as a non-profit. We don't have the funds to do this kind of research, and I think it's necessary. It's necessary especially when we're talking about affecting the lives of millions of renters in this province.

A 17-page document that's put out for people to look at and to consult on and to comment on is not adequate. Perhaps the government would like to employ workfare recipients to do this kind of research. I hope not. I think people should be paid a decent wage, and contract out. We have skilled people who are worth the money to pay them to maybe look at the student aspect of this, to hold consultations within the student community.

I think in some ways these types of hearings are a charade. We have the government on one side, the opposition on the other, all grandstanding, all wanting to make a public statement that this is true consultation. I don't think it is. I don't think it works. It's incumbent on the government to present us with options, show us the rationale, give us the means to do the research so that we can do true consultation. I think it's a mockery of the fiduciary responsibilities of government. We should be presented with options. The public and the organizations that represent different groups in the public should be consulted more effectively.

**The Chair:** We've got just a quick minute per caucus for a statement or a question, beginning with Mr Marchese.

**Mr Marchese:** Thank you for the presentation. We've had a number of students who have come in front of this committee worried about the effect of increases that this will have on them. Just to ask a quick question again, because I'm interested in that point: The Conservatives argue the system is broken. You've argued the current system is broken. So they've come up with a proposal to help tenants out. Is there anything in this proposal that helps you to deal with the concerns you've raised with respect to one of the 170 complaints you've received?



**Mr Novak:** I think, to be fair, some of the provisions around property standards enforcement; that is certainly in the right direction. But particularly with elimination of rent control and some of the other provisions that are going to affect rental increases as they pertain to students, as they pertain to our campus and our co-op cycle, I don't think it does. Students are hurt certainly the most by this.

**Mr Maves:** Thank you very much for your presentation. Just quickly on sublets, because I know that's important to a student who goes back to where he or she is from in the summer and sublets to somebody: We had a gentleman last night, a lawyer, who cited a case where a unit was sublet out to someone who was a crack cocaine dealer and they had a great deal of trouble getting the person out and so on. I can see the landlord's point of view when things like that happen. How can we get the proper balance in that area?

**Mr Novak:** As far as I know, most students are not crack cocaine users.

**Mr Maves:** I'm not saying that they are. I'm saying there are instances where —

**Mr Novak:** Certainly there are instances where this occurs, but with that specific problem, we haven't had an exhaustive look at it.

**Mr Curling:** Mr Novak, thank you for your input. It is unfortunate that the government chose a time to have this consultation when students are busy trying to get back to school. They are going to be greatly impacted, because New Directions is really putting students out especially. One of the greatest costs they have is tuition fees and next is accommodation. So much could be learned from students coming forward, people like yourself, who are saying this has a great impact and the consultation process is flawed. Would you need an opportunity, when they have this legislation put together, to have some contribution towards this legislation in the New Directions way? Would you like that opportunity?

**Mr Novak:** We certainly would like it; however, with one proviso. Students are busy surviving, doing school work and trying to do well, and they spend some volunteer hours doing things. That's finite. In order for us to have meaningful input, we need to be able to do consultation that is more lengthy, that reaches out to the vast majority of students, not just five students and use that as an example; and to consult with the various agencies at the university and within the student community that would have something to say about this. We're prepared to do that.

**The Chair:** Thank you, Mr Novak. We do appreciate your coming forward today with your input.

#### WATERLOO REGIONAL APARTMENT MANAGEMENT ASSOCIATION

**The Chair:** Is Alexandra Lawson here? She has designated her time, and she was supposed to be here to introduce Mr Eby, the past president of Waterloo Regional Apartment Management Association. Good afternoon, Mr Eby. You have 20 minutes. Should you allow any time for questions, they'd begin with members of the government.

**Mr Robert Eby:** Good afternoon. My name is Robert Eby. I am the past president of the Waterloo Regional Apartment Management Association and I own one rental unit. I have managed over 3,500 units in the past 20 years, some under rent control and some exempt. The exemption of course was taken away when the NDP convinced Mr Peterson to agree to put all buildings under control. I guess some politicians will compromise others' rights just to become Premier. I sincerely hope Mr Harris does not turn out to be just like all the rest.

I would like to congratulate the Progressive Conservative Party and its leader, Mike Harris, on the excellent job they have done so far.

When you were campaigning you made some promises. You promised that you would abolish photo-radar, and even though you had some strong opposition, you went ahead with your promise. You promised to cancel a number of labour laws and really stuck to your promises, notwithstanding the tremendous pressure the unions brought to bear. You promised to cut back the civil service and you're well on your way to accomplishing this. I believe the public is still impressed with what you promised to do and what you have done so far. Keep up the good work.

I think it was in 1973 that the PCs were elected and one of your promises was to bring in rent controls for three years. You kept your promise, but at the end of your mandate it was impossible to eliminate rent controls and get re-elected. So here we are today still discussing rent control.

My point is that before this last election you made a promise to eliminate rent controls, and I am here to ask you to keep your promise, just like you did with all the other promises you made.

When it came to finances, you promised to cut back welfare to 10% above the national average, and you did, and now you want to make landlords responsible to provide housing to those who require assistance at our expense, since you cut some of your expenses. Well, it's totally unacceptable. Landlords are people too and we should not have to shoulder the burden of housing the less fortunate. This is a taxpayer problem for all taxpayers of Ontario, not just landlords.

I believe Canada is the best country in the world. The reason it is are the freedoms and opportunities we have. In addition to the major freedoms and rights we have, we also have the freedom to move anywhere in our country without the fear of being told we can't; the opportunity to apply for a job that we think we can do and the freedom to quit if we don't like it; the freedom to put money away for a rainy day or to buy a house; the opportunity to select where we want to live and, if we're renters, give notice to the landlord if we want to leave. He can't make us stay.

1540

We as landlords want the same freedoms and opportunities as every other taxpayer. We put away the money, we purchased the home or purchased a multifamily home or an apartment building or a town house or a group of town houses. The reason we did was because we thought it would be an excellent place to put our money into until retirement; then we would not have to rely on the govern-



ment to give us handouts to live. If you allow us to have the freedom to compete in the marketplace without your intervention on the rents we charge, you might find our properties will improve in the standard of maintenance and overall the tenants will be better served. Give us back the rights to our property. Set the rules fair to both the landlords and tenants as far as maintaining and operating our buildings are concerned, but allow the landlord to set his own rents.

You've all received copies of the submission made by the Fair Rental Policy Organization and I'm sure you've all read it, so there would be nothing to gain if I resubmitted what was said in their report. We at the Waterloo Regional Apartment Management Association agree that if you will not eliminate rent controls then please look at this submission with an open mind.

When we talked to our members at several of our meetings we received some of the following comments.

One member said: "Landlording is a business. The previous government said housing was a right. You should now revert back to treating our business as a business. If you do not regulate the price of food and clothing then do not regulate the price we wish to charge for our rental accommodations."

Another pointed out that you should not penalize all landlords with rent control in the province of Ontario because of the housing problem in Toronto. Perhaps we could all try to find ways to solve Toronto's rental problem.

Someone else indicated that we voted you in believing you were for responsible free enterprise, but now you are continuing to add to the socialist ideas of the NDP by continuing to promote rent controls.

We were asked by a member: "Is the government again saying rent controls do not apply to new construction? Why should we believe them? They first said rent controls would only last three years. They also said prior to the last election that they would eliminate rent control." What do you reply to our member?

A question for you from another member: "If you will not eliminate rent controls for all buildings in Ontario, how about a compromise and at least take off the controls on all post-1976 buildings that were originally exempt?"

One member suggested, "When it comes to requests for maintenance, make it mandatory that tenants must first request repairs in writing and that the tenant must let us in to fix the repairs."

We understand you will combine all acts into one and make it simple. "It's an excellent idea," said one of our members.

In a straw poll we found that 60% to 70% of all rental units are not at legal maximum rents in areas other than Toronto. Has the government ever completed this study? What the government proposes to do is to allow us to set new rents when a tenant vacates but then come under rent control again. This suggestion is worse than the NDP ever proposed. And don't get me wrong; I'm in no way giving praise to the NDP.

Many landlords wanted to know, when it comes to tenants who are on some form of social assistance and they do not pay the rent, why won't the municipality pay the rent direct to the landlord? The regional social

services say you can only get a rent paid directly to the landlord from those on general welfare and not for any other form of social services, for example, mother's allowance. Why? In the past we have gone to social services and informed them that a particular tenant is not paying his rent. They then deduct the rent from their client and keep it. We ask that if they deduct it from the client they pay it to the landlord who did not receive it. I believe you can change those laws to allow us to get rent paid direct.

A member asked that you look at the cost to the taxpayer to administer rent control. Isn't this an incentive to get out of the rent control business?

Another member thought that if you eliminate rent control, some tenants might get rent increases and they just might start looking at alternatives like buying a house. Many tenants stay in rent-controlled apartments because there is no incentive to move out. Ask Mike Harris. He lived in one.

"What can we do for people who are allergic to animals who are now in our building and a new tenant brings an animal into the building?" asked one of our newest members. What's your response? She went on to ask, "Will you reconsider allowing us to make agreements with our tenants about pets?" Our member also added: "Let the landlord decide if she wants pets in her building. It should not be the tenant's right to bring a pet into the rental unit. It should be a privilege."

We agree that "common sense" is your slogan. Use it now. I wish to thank you for the opportunity to present some of our concerns. I sincerely hope you will not treat us like the past government and you will truly make this consultation with fairness in mind. Please feel free to ask me any questions that come to mind.

**The Chair:** Thank you, Mr Eby. We've got about three minutes per caucus, beginning with Mr Stewart.

**Mr Stewart:** We've heard a number of times over the last couple of weeks and have heard three or four times today that shelter subsidies may be the answer, paid direct. Needless to say, you comment on pay-direct as something you support. What about the shelter subsidy? Do you feel that if the landlords know they're going to get paid, they will then get involved with new construction because they will eventually get a return on their money?

**Mr Eby:** I don't think landlords or developers are going to build buildings simply because you allow — general welfare tenants already can pay direct, but if you allow mother's allowance people to pay direct, I don't think developers are going to be building buildings at that rent level, no. They can't afford to.

**Mr Stewart:** The problem we have now is that we've built them over the last 10 years to the tune of \$100,000-plus per unit. The private sector could do them for about half of that. One of the comments was that it appears that a lot of the landlords and property management people don't want to get involved with social assistance people or low-income people or whatever you wish to call them, because they are concerned that they're not going to get paid.

**Mr Eby:** My comment was that existing landlords with existing buildings will rent to people who are on mother's



allowance, social assistance and so on. They do now. However, when someone does not pay, we don't have recourse to get the money. If you allow us to get paid direct, then we don't have to worry about the tenant not paying the money, and I believe more landlords would openly rent to people who are on assistance.

**Mr Stewart:** That's my point. We've heard continuously about accountability on behalf of the landlord. What about accountability for tenants?

**Mr Eby:** Meaning should the landlord tell the tenant where he spends his money?

**Mr Stewart:** No. What I'm saying is that a landlord doesn't usually go into his own apartment and smash holes in the wall. Should there be more accountability in legislation for the tenant to have concern over the property he is renting?

**Mr Eby:** I'm not sure how you would legislate it. I think our system, under the Landlord and Tenant Act, allows a landlord to evict a tenant because he's done damage.

**Mr Stewart:** But the repairs and everything else go along?

**Mr Eby:** Yes, it would be nice to recoup that money.

**Mr Curling:** Mr Eby, you were quoting from some of your colleagues who gave you some of their concerns. You omitted one. Someone else asked, "Why do you propose to eliminate maximum rent?"

**Mr Eby:** I'm sorry. Did I miss that? Yes, I did.

**Mr Curling:** Yes. That's an important one, you see, because legal maximum rent was created by rent control. Could you expand on that? Would you want the government to eliminate maximum rent?

**Mr Eby:** I did say that we would be in a worse position than we were under the NDP system. If you eliminate maximum rent at this point — our economy says that 60% to 70% of all landlords in this area are not getting maximum rent. If your maximum rent is \$700, because of the way the economy is you rent for \$600; the new tenant comes along and the economy is a little worse now compared to when you rented to the guy at \$600 a couple of years ago, so you only get \$550. You're now telling the landlord he's stuck at \$550 and if the economy gets better two years from now he can't go back to \$700 with that same tenant? We're saying leave maximum rent, absolutely.

**Mr Curling:** Definitely, because rent control will help you to get there.

**Mr Eby:** Yes.

**Mr Curling:** So you like rent control.

**Mr Eby:** Oh, absolutely not, sir. I would rather be able to have my rent level anywhere I choose to put it because it's my building and it's my investment.

**Mr Curling:** Rent control has created that for you. You want to have your cake —

**Mr Eby:** No, rent control did not create the \$700 for me. It limited me to \$700 because at some point in time prior to the economy we're in now, instead of getting \$700 I could have got \$1,100 and you prevented me from getting it.

**Mr Curling:** Let me ask you this: Was it rent control that caused the economy to be where it is today?

**Mr Eby:** I don't think so.

**Mr Curling:** Rent control didn't cause it, so therefore the problem —

**Mr Eby:** Therefore, if it's not a problem, take it away. Get rid of it. It doesn't belong here.

**Mr Curling:** The problem, the reason people do not access your building for the kind of money you'd charge at legal maximum rent, is a matter of affordability.

**Mr Eby:** No, it's a matter of the economy. They won't pay \$600 for a two-bedroom that looks like mine when they can go down the street and get the same two-bedroom for \$550.

**Mr Curling:** You said there should be consultation, Mr Eby.

**Mr Eby:** Yes.

**Mr Curling:** Lampert, who created the report for the government to write New Directions, did not consult any tenants. Do you think the government should be speaking to tenants and tenant advocacy groups?

**Mr Eby:** I don't know his report. I haven't seen it.

**Mr Marchese:** Mr Eby, as a preface to many of the questions I have for you, I want to say that I am not unsympathetic to landlords who have difficulties with tenants who don't pay or who cause damage. There is recourse in the law, but at times you don't get the money back. This is true. Having said that, I have some questions for you.

You own one building?

**Mr Eby:** One house that I rent to a tenant, yes.

**Mr Marchese:** You're doing okay in terms of the return from that renter?

**Mr Eby:** No. As a matter of fact, I have to subsidize the cost of my house to the tune of about \$3,000 a year.

**Mr Marchese:** It's costing you money?

**Mr Eby:** Yes.

**Mr Marchese:** Why are you doing it?

**Mr Eby:** Because I would lose \$50,000 if I sold my house.

**Mr Marchese:** I see. Do you take the guideline you are provided by the current legislation?

**Mr Eby:** I have not raised my rent in two and a half years.

**Mr Marchese:** Why not?

**Mr Eby:** Because I can't get it. If I raised the rent the tenant would move, and if I tried to rent my house today I would not get the amount I'm getting right now from a new tenant.

**Mr Marchese:** That's interesting. You can't raise the rent because if that person leaves nobody would come in, is essentially what you're saying.

**Mr Eby:** I'd have to decrease the rent to get a new tenant, yes.

**Mr Marchese:** But you would like to be able to have the power to be able to raise the rents however much you want.

**Mr Eby:** Absolutely.

**Mr Marchese:** So you can get that increase now, which is 2.8%, but if rent control weren't there you'd be able to charge whatever you like and you could get it?

**Mr Eby:** No, I didn't say that. I said let me charge whatever I can get. If two years from now I can put the rent back to \$1,000 that would break me even, then let me charge it. Stay out of my business.



**Mr Marchese:** I understand that. You want property rights for owners. Do you think the same should apply to those who own 100 units or 200 units, however many units there might be in a building?

**Mr Eby:** Absolutely.

**Mr Marchese:** What about the tenant? In that environment that you're describing where the landlord has absolute rights to do whatever he likes, and in most cases they do now, do you think —

**Mr Eby:** We're talking about charging rent. There are some things the landlord cannot do and should not do.

**Mr Marchese:** So you're saying they should charge whatever they like and if tenants can't afford it, tough luck, they'll move out and find some other arrangements. More or less, is that what you're saying?

**Mr Eby:** I'm not using those words. I'm saying that if I have a business of operating a 100-unit building, let me operate my building. You are not telling the food people to charge \$4 for whatever.

**Mr Marchese:** I understood you, but my question is different. You're saying you own a property and you want to be able to raise rents to whatever amount you'd like because it's your right; you own the building, you said.

**Mr Eby:** Yes, that's right.

**Mr Marchese:** Who protects the tenants if they are unreasonable rates?

**Mr Eby:** But they can't be. If they are unreasonable, then I will have an empty building and I will not be able to afford my building and I will lose my building.

**Mr Marchese:** So you're saying —

**The Chair:** Thank you, Mr Marchese. Thank you very much, Mr Eby. We do appreciate you coming forward this afternoon with your input.

We are now recessed until 5 o'clock.

*The committee recessed from 1555 to 1701.*

**The Chair:** Good evening. Welcome to the resumption of our hearings.

#### PINE MEADOWS HOMEOWNERS ASSOCIATION

**The Chair:** Our first presenter this evening, representing Pine Meadows Homeowners Association, Peter Brophrey, the president. Good evening, sir. Welcome to our committee. Should you allow some time for questions in your 20 minutes, the questioning would begin with the Liberals.

**Mr Peter Brophrey:** Thank you very much, Mr Chairman. I don't know whether it's heartening or not to hear you say "Good evening" when the sun is still shining out there. But good evening to you, sir.

**The Chair:** Thank you.

**Mr Brophrey:** You heard Pine Meadows very well and accurately described at noontime today by the land owners of that project, Don and Janet Vallery, when they spoke at 12 o'clock noon.

I'm president of the Pine Meadows Homeowners Association, which comprises all 202 retired homeowner residents of that community, living in 104 homes. The present investment by us, the homeowners in the community, totals about \$18 million in the homes that we

own there which we estimate to be probably around three times the land owners' equity.

Our major message is really the same as the one delivered by the Vallerys at noontime today, and that is that owned-home, land-lease communities differ very, very greatly from traditional rental situations, and I'm sure you've heard that during the appearances before you these last couple of weeks. This is because we purchase our own permanent homes. They're not mobile homes, they're not trailers or even, for that matter, condos. These permanent, stand-alone homes are built on full basements on land rented by the homeowners from the land owner development.

Essentially, we homeowners make three different kinds of payments to the land owner-developer. The first kind of payment, usually ranging from \$150,000 to \$200,000, is for the outright purchase of the home when we buy it. The second kind of payment, generally about \$250 per month, is for monthly land rent payments to cover the prorated one-time land acquisition and initial development and infrastructure costs. The third kind of payment, up to about \$150 per month, covers two distinctly different kinds of maintenance costs, and these were explained in some detail by Mrs Vallery. The first is community maintenance and upkeep, like snow removal from internal roads and sidewalks, street maintenance, sewer and water system operation, parks and recreation, and electricity and upkeep for street lighting etc. In a different kind of community, these costs would be provided by the municipality, not by the land owner. They would be provided by the municipality and would be paid for by taxes. Of course, we all know that taxes flow through to the homeowner and are borne by the homeowner outside of the present 2.8% annual rent increase cap. The second kind of maintenance cost which we pay monthly represents home services like lawn care and driveway and front walk snow removal, cable TV etc. Again, in a different kind of community, some of these services would be performed by the homeowner, while others are contracted out by the homeowner at a freely negotiated price, not subject to rent control.

In Pine Meadows, both of these community and individual maintenance operations and costs are carefully reviewed monthly by a very effective land owner-homeowner committee. With respect to these three important matters, we make three recommendations which are more formally presented in the paper which we have submitted to you.

Our first recommendation is to treat owned-home, leased-land properties separately and distinctly from traditional rental properties, condominiums or trailer parks in all legislation. We are none of these. We're not a condominium or a traditional rental property or a trailer park. We feel that we and the government officials responsible shouldn't have to interpret whether legislation and regulations aimed at landlords and tenants apply to us.

The next recommendation is twofold: The monthly land rent and maintenance payments should be clearly separated from one another in any regulatory regime. Let me elaborate on these next two recommendations. Our second recommendation is that monthly land rent pay-



ments should remain controlled because they represent money spent at a fixed time in the development's history, the beginning of the development. They do not increase through time. Consequently we recommend that the controlled rent increase on the land-lease monthly land rent payments should be 0% instead of the maximum across-the-board annual rent increase of 2.8% which applies to conventional rental properties. Not surprisingly, this is one of the two points which Mr Vallery mentioned this morning that we were not in agreement on, the land owner and the homeowner.

Our third recommendation asks for full pass-through of all maintenance costs after review for reasonableness by a land owner-homeowner maintenance review committee. We believe that this review process is the key to making pass-through work effectively and fairly, and we and the Vallerys are in full agreement on this issue. In our opinion, implementation of these three recommendations would dramatically improve the fairness and the equity of owned-home, leased-land transactions, both for land owners and for homeowners.

We're making a fourth recommendation and that is with respect to the Planning Act, which presently limits land-lease terms to 20 years. We understand that there were good reasons for this, reasons associated with the integrity of municipal planning. But the recent growth in numbers of land-lease communities and homeowners requires consideration of the situation in which homeowners will find themselves upon lease expiry only 20 years after home purchase. This situation becomes more critical when one considers that the majority of such homeowners — owned-home, land-lease homeowners — are retired seniors. Many of them increasingly are younger retirees or early retirees. We are suggesting that a lifetime or a 40-year term would be a more practical and compassionate alternative than the present 20-year limit on land leases under the Planning Act.

We're also concerned about the discussion paper's proposal that rent controls should cease or be interrupted when the lease expires. Again, we and the landowner do not agree on this particular point in Pine Meadows. In a conventional landlord-tenant situation, it's an intrusion into the private negotiating process for the sale of owned-home, leased-land homes. We feel that such artificially and inappropriately increased land rentals will depress the resale value of our homes, transferring more of our home equity to the land owner. We believe that the lease and its terms should pass with the home and the 0% land rent increase recommended by us should continue following the sale of the home for the remainder of the lease term. Permitting land rents to rise after sale of the home is yet another example of the inappropriateness of combining owned-home, leased-land properties with traditional landlord-tenant situations.

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We're in general agreement with the discussion paper's proposals regarding mediation. As a matter of fact, our lease agreement at Pine Meadows already provides for mediation of disputes which might concern maintenance charges. We also endorse the measures already enacted concerning homeowner rights.

We appreciate the opportunity to share with you our concerns as owned-home, leased-land homeowners, and we join the Vallerys in inviting members of the committee or the ministry staff to visit our community if this would assist in understanding the unique nature of owned-home, leased-land communities.

**The Chair:** We've got about three minutes per caucus for questions, beginning with Mr Curling.

**Mr Curling:** It's good to see you. I'm disappointed that I see you out here. You should be back in Scarborough where you really belong.

Let me take you up on the last point you made. You say that maybe we should all visit Pine Meadows to understand the concept there. My feeling about consultation too is to be onsite. This process lacks contact with people, contact with all those who are involved with what the legislation is going to reflect. You know the old saying, "Laws for the people, by the people." I think we've got to understand that. I can't tell you that I'm an expert or have full knowledge of what this is all about. I'm getting the drift as I go along from people like yourself who have presented those kinds of concerns.

You said you are in full agreement with the harassment process the government has put in place. Is that part of what you are saying, the settlement resolution —

**Mr Brophay:** No, I didn't use the term "harassment," Mr Curling. Harassment?

**Mr Curling:** The mediation proposal.

**Mr Brophay:** Mediation, yes. There's a great difference.

**Mr Curling:** It's the same thing as the harassment tribunal that they want to put in place. Is that what you're saying?

**Mr Brophay:** Well, the paper suggested that a mediation process — yes, I guess it was a tribunal — should replace access to the courts for disputes in rent settlement, and we're saying yes, that's a good idea. We would much rather go to mediation on any disputes we had with our land owner than take it to court. We already have that process in place for any disputes that might arise on maintenance matters.

**Mr Curling:** Do you feel too that if it would work in your quarters, the same thing would work with landlords and tenants outside? You are slightly different, as you said. You come to this table and say, "We are quite different," and I understand that. We have to be sensitive to all of that. But in the meantime, do you think the same model that would work for you would work in general across landlords and tenants better than what we have now?

**Mr Brophay:** I really couldn't speak to that one. I would like to think it would, but we have a spirit of cooperation in most of the owned-home, leased-land communities where we're accustomed to negotiating and dealing with the land owner and among ourselves constantly. I don't get the sense that that spirit exists in the conventional rental marketplace.

**Mr Curling:** I'm not going to have many questions. Maybe my time is running out. I have to, again, understand fully some of the complexity and some of the things you are talking about that need to be looked into. I hope when the legislation comes in, you will be given



an opportunity to see that the legislation reflects the things you need. Would you like that opportunity?

**Mr Brophay:** Yes, I would, and we would like the opportunity again to show members of this committee or of the ministry what a land-lease community looks like. If you'd never seen an apartment building, you'd probably want to tour one and see what it looked like. Our communities are different and I think tasting the pudding is the best test.

**Mr Marchese:** Mr Brophay, would you say that you have a well-organized tenant group?

**Mr Brophay:** A homeowner group, yes.

**Mr Marchese:** It seems to me that you are well organized, unlike so many other groups we've seen, although today we had a wonderful presentation by a group that was, I thought, strongly organized: Estates Tenants' Association.

**Mr Brophay:** Yes, I heard that one.

**Mr Marchese:** I thought if everybody was as organized and as articulate, things would get solved. Unfortunately, things are not always so, and when that is not the case, then you have a problem between those who own and those who obviously lease land as you do. Have you heard of other communities like yourselves where they are not as well organized?

**Mr Brophay:** There undoubtedly are some. There's a wide mixture of them. We've heard of many, one of which is only about 20 miles from here, that are as well organized as we believe we are and communicate effectively and well among themselves and with the land owner.

**Mr Marchese:** It's impressive.

In your recommendation number 3 you say, "Maintenance costs, after review by homeowner-land owner committee, should 'flow through' and not be subject to rent control." That seems ideal. Because you have a situation where you are able to communicate very well with each other and with the owner, something like that could work, I suppose. But if you have a disagreement, how do you deal with that disagreement prior to flow-through?

**Mr Brophay:** To date the disagreements that have arisen have been negotiated by ourselves using reason and common sense. I would say we win some and we lose some, but we usually come up with better solutions because we negotiate and we compromise at times.

**Mr Marchese:** I appreciate that, but it doesn't always work. We know there's a power relationship that isn't equal, and in some areas where the land owner obviously isn't as good as what you seem to have in this situation you've got a problem. The imbalance of power doesn't allow for that sort of relationship to occur. How would you deal with those situations that are quite different from yours, obviously?

**Mr Brophay:** With respect to the power situation, there is equality. Our investment, which I mentioned, is about \$18 million in the homes that we have. The land owner's investment is less than a third of that. I think there's a pretty good power-sharing climate in that place; plus, he's still trying to sell houses and doing it quite successfully.

**Mr Stewart:** Thank you, sir, for your presentation. Going back to the maintenance and flow-through costs, you're suggesting that there basically should be three forms of payment: first for the rent on the land; second, a flow-through for maintenance etc. What about capital costs? Are you going to include that as capital costs or would it be through the flow-through mechanism as in maintenance? Not in your particular operation or your mobile home site, but we're hearing that people are finding, after they've owned them for three or four or 10 years, that they've got to put a whole new infrastructure under them and of course they don't have the dollars and can't raise the rents to do it. In the one you have — it's four or five years old — if they have to spend some major capital costs over the next number of years, should it be the third part of the payment and only for the length of time it costs to do that capital expenditure?

**Mr Brophay:** First of all the maintenance cost should include an amount for building up a reserve which could be used to replace or enhance important services in the community. Second, if, let's say, we were to make an addition to the recreation centre or some of our town facilities, I'll call them, we would be charged for the depreciation on those expenditures over the asset's lifetime. Under the committee concept which we practise, we would vote as a community on whether or not we wanted those improvements done. We could probably at that time determine how that would be paid for. We'd like the land owner to pay for it and then charge it out over the life of the building or the facility he put in, but we might opt to build it cooperatively as well.

**Mr Stewart:** One concern we're hearing from tenants is, "If they want to do a maintenance thing in our particular apartment, they put a percentage on and it goes on forever." What I was trying to get at was, if it's a capital project, should it be divided over the period of time that it's going to be payable?

**Mr Brophay:** The balance? That would be our belief. I remind you again that what's good for an owned-home, land-lease community may not be applicable or good for a more conventional rental situation, because we are homeowners.

**The Chair:** Thank you, Mr Brophay. We appreciate your input this evening.

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#### TENANT ADVISORY COUNCIL OF NORTH WATERLOO HOUSING

**The Chair:** Our next presenter is the Tenant Advisory Council of North Waterloo Housing: Ron Dempster, chair, and Angela Schlichter. Good evening. Welcome to our committee.

**Mr Ron Dempster:** My name is Ron Dempster. I'd like to have a tenant from one of our complexes, Angela Schlichter, do her presentation first. Thank you.

**Ms Angela Schlichter:** I would like to thank this committee for hearing my views on the discussion paper New Directions. My name is Angela Schlichter. I am a single parent with two young boys. I have had an opportunity to read your paper and I am concerned about several areas of discussion. My first concern is in regard



to the government's intentions regarding Ontario Housing. My second concern is that housing must remain available to families on limited income. My third concern is that a lack of rental controls and removal of tenants' rights will increase the difference between rich and poor.

First, although this paper does not say what the government intends to do with public housing, the present government made it clear in its run for office that it would sell Ontario Housing. In your discussion paper, the conversion of rental units into condos will enhance the government's ability to get rid of housing units. Even if the government gives first options to buy to current residents, it is not feasible for most people in my position to buy their units. With the conversions, most families in financial situations similar to mine will have to move and find alternative rents that will be suitable to our incomes. The removal of rent controls will mean that we will be put on the streets, negotiating for rents that have no controls, leaving us at the whims of landlords. Even as I speak, rental units or buildings are left empty as landlords would rather claim them as losses than reduce rents.

Second, I am concerned that housing will remain in the reach of families on limited incomes. As my income is limited, I need an affordable rent to make ends meet. Presently I am able to do that because of housing. I work in a contract position for Club Presentations. That means I am not given guaranteed hours. I do not necessarily know from week to week if I have work. I get paid \$7.50 per hour on either a 27- or 30-hour workweek. My income is supplemented with child support. In a good month my income could be about \$1,500; however, sometimes it's as low as \$900. I currently pay \$403 a month in rent with Ontario Housing. This means that in a bad month I have less than \$500 to pay for child care, buy groceries, clothe my children and supply them with any medications they may need. I do not have health benefits. I also have to cover optometrists' and dental costs. As things stand, I have had to cancel eye appointments for my children because I cannot afford to buy their glasses. I wonder how they will manage at school without them. Will they be able to read properly or see the blackboard without them?

Furthermore, most financial experts state that no one should pay more than 25% of their income on rent. I already pay 28%. If the minister goes through with his considered plan of reducing contributions to rent-geared-to-income subsidies by raising the contributions required of renters by as much as 40% of income, this would mean a possible rent increase of as much as \$250 a month for me. At this rate I have not the faintest idea where I could cut my budget enough to cover such a difference. As it stands, my wage covers only essentials.

Third, the lack of rent controls and the removal of tenants' rights will further segregate people by classes: those who have and those who do not. The removal of rent controls for non-sitting residents will make a decent rent out of reach for me and my sons. We will be forced to rent apartments that are not suitable for raising children. These apartments are dirty, infested with cockroaches and unsafe. People are already having to live in these slums. This is not an environment that I want my children to live in. Even when people voice their con-

cerns about these living conditions, city standards officers do not respond because they have loosely defined guidelines that cannot be acted upon. You do not discuss in your paper the minimum standards that landlords must provide. Provincial minimum standards should be outlined and easy to enforce so that my children will have a clean, safe place to live. Also, the premise that increased rents will lead to money being put back into buildings is still not enforceable. You are relying on the goodwill of landlords to do that. We recommend that they be legislated to do it.

In conclusion, families on limited incomes must be able to afford clean, safe housing. The removal of rent controls will remove that right. People should not have to choose between the necessities of life. Children need food, clothing etc. This government does not recognize the need of low-income families and their rights to affordable housing. This government needs to make decisions that will support families and their children. Our children are our future. Thank you.

**Mr Dempster:** I am 63 years old, married and a resident of a seniors' building managed by North Waterloo Housing.

In an effort to save time — I think you've got the copies in front of you — I'd like to move over to page 2 and the reason I'm here: to speak to you regarding the consultation paper on rent control, to ask the government of Ontario to take a closer look at the proposed changes to the Rent Control Act, the Rental Housing Protection Act and the Landlord and Tenant Act, and to examine how these changes will affect the quality of life for low-income tenants and pensioners.

As a tenant and member of the Tenant Advisory Council of North Waterloo, I'm very concerned about the discussion paper *New Directions*. The proposed changes listed in this report will have a significant impact on low-income and fixed-income tenants relative to our housing needs and potential impact on other life essentials if affordable rents are not maintained for decent living accommodations.

In a recent meeting with Wayne Wettlaufer, MPP, we were informed that the government will be selling off Ontario Housing units. Assuming this sale takes place, what protection will be afforded the 1,645 tenants of North Waterloo Housing to alleviate the impact of these properties being sold? Affordable housing will not be available in the private market due to the proposed changes in rent control and the availability of affordable housing in our community. If rent control is removed, protection for tenants is at great risk.

My wife and I are living in North Waterloo Housing as a necessity. If we had to move to a one-bedroom apartment at market rates, our choice would be rent or food. The Kitchener-Waterloo vacancy rate for a one-bedroom apartment for anything under \$399 is 0% and for anything under \$400 to \$619 is 1.9%. I've attached the CMHC report to the back of my presentation to you. Living on a fixed income, we could not afford the proposed increases. My wife is diabetic, and with no health plan coverage we are barely getting by each month. We are not alone. Many people in North Waterloo Housing are in the same situation or worse. For example,



the maximum rate for a single person on social assistance is \$325 per month for accommodation costs. Families on social assistance are in a worse situation because they have to clothe, feed, educate and house their families.

The availability of affordable family housing in Kitchener-Waterloo is also very low. According to the CMHC report — I won't read this because we're getting close to the time; it's on the back page, as I mentioned — for example a family of six, four children and two adults, living in one of the North Waterloo Housing complexes: The father works at construction, which is seasonal, and receives minimum wage. This family could not afford to pay market rent for their unit. In another unit, a single mother who is working has two daughters in high school who could not survive on her wages without Ontario Housing rent-geared-to-income housing.

Approximately 60% of family tenants in North Waterloo Housing are working, some only part-time and often earning a low wage because employment is difficult to obtain. I know several single mothers who are working and have trouble making enough to pay their babysitters since the recent cutbacks. Other residents are on disability but still have their home and pride, and now they're in danger of losing both. There are families in North Waterloo Housing that are barely making it through the month now without going to the food bank. If the housing complexes are sold, what will happen to these people when rent control is removed? Is this community prepared to take 1,645-plus families and seniors into their homes or see them out on the street?

The seniors living in North Waterloo Housing are extremely upset, as they do not know what's going to happen if their building is sold. The tenant advisory council and North Waterloo Housing have received literally hundreds of telephone calls from the families of these seniors who are concerned with what will happen to their mother or grandmother living in subsidized housing. Their incomes are fixed and they could not afford to pay market rents.

The government is seriously considering reducing its contribution to rent-geared-to-income subsidies by raising contributions required of renters to as much as 40% of gross income. As an example I've illustrated here, from the \$12,000-per-year gross, 40% for rent leaves less than \$600 per month for necessities. Many seniors receive less than this figure, which I have found out. Also, the group between 55 and 65 are in a worse situation as they receive no medical, dental or drug assistance.

This is a huge increase for seniors based on the yearly increase they receive on old-age pensions. The government has said they would protect people with special needs such as the elderly and disabled by continuing rent control indefinitely for such tenants. How can this be achieved if these buildings are sold to private enterprise?

The following questions and comments are from fellow tenants:

(1) What assurances can the government give to tenants that under the new tenant protection legislation public housing tenants will not be adversely affected by a revised rent control system or changes to the Landlord and Tenant Act — for example, the proposed sale of OHC units?

(2) What is the current government's position on the proposed restructuring of OHC, and what plans are in place or being considered by the minister to improve the efficiency and accountability of OHC?

(3) What is the current government's position on the introduction of a shelter allowance or subsidy to individuals, has the government analysed the enormous cost of such a plan, and how is the government going to run the plan and the administration?

We recommend retaining public ownership of OHC housing stock. Ownership could be transferred to local incorporated bodies, formed through the amalgamation of local housing authorities, who would have the mandate of managing and maintaining assets. We prefer local ownership and control. In particular, North Waterloo Housing has become adept at managing housing and has coordinated support for the frail elderly and disabled through partnerships with local service providers. In general we feel the North Waterloo Housing managers and staff are unrivalled for efficiently, delivering and excellent service at modest costs.

Finally, I hope the ministry will make use of the expertise of local housing authorities and allow them and North Waterloo Housing to continue to manage their local provincial housing portfolios. We feel this restructuring would meet the government goals of expenditure reduction, less government, less dependency on government and better customer service.

1730

Thank you for this opportunity to provide a realistic insight into our concerns and to the potential real-life impact.

**Mr Marchese:** Thank you both for coming. Thank you, Angela Schlichter, for your presentation. This is the reality we are trying to focus on as well. Part of what I'm concerned about is how we protect people with low incomes. We heard a previous landlord who said: "This is my building. I should be able to do what I want and I should be able to increase rents to any extent I want." When landlords speak about the free market, allowing the market to set the rents, they're basically saying the same thing. Then we ask them, "But how would that affect people with low incomes?" Their answer is that it's not their responsibility to worry about that, governments should worry about that, but they support a shelter allowance.

The shelter allowance is something you raised. Do you believe this government should state in advance what that shelter allowance is, what the amount is?

**Mr Dempster:** Yes.

**Mr Marchese:** Are you worried in not knowing in advance what they might —

**Mr Dempster:** Definitely. From the phone calls I've gotten, I'm quite worried.

**Mr Marchese:** I have to tell you, I read briefly the Fair Rental Policy Organization report. Mr Clayton wrote that report for them. The way I read it and the way it's explained, you wouldn't be getting the same subsidy you have at the moment in terms of shelter allowance; it would be less.

**Mr Dempster:** Correct.



**Mr Marchese:** That's why I'm worried and that's why I want them to explain to us what that amount is. Some of you might feel a little more secure thinking you're not going to be getting \$200 or \$300 less, in addition to some of the cuts we've experienced, in which case you are really in trouble, and society would be in trouble.

**Mr Dempster:** Definitely. Particularly the senior population will be very hard hit.

**Mr Marchese:** We, the New Democrats, built non-profit housing and cooperative housing because, first of all, we were the only ones creating housing, and therefore stimulating the economy, but we also built housing that was suitable to people's needs — people with disabilities, people with HIV, people with low incomes, the elderly and so on. Do you believe it's the government's role to get involved or not?

**Mr Dempster:** I believe it is.

**Ms Schlichter:** I think the government should support its people, not put them down.

**Mr Marchese:** I have to tell you I'm absolutely concerned about the government's desire to sell public housing. I'm not sure what their plans are, but if they then permit it to go into the market, depending on who the owner is going to be, we have a serious worry. I'm not sure whether the tenants realize this is about to happen, but I hope they know it's going to happen. You ask, "What assurances can the government give to tenants that under the new tenant protection legislation public housing tenants will not be adversely affected?" You're not going to get any. But it's a good question for them.

**Mr Maves:** Thank you very much for your presentation. I will note that a lot of the housing projects that we did remain committed to and did see built were special-needs housing, so we realize there's a role for government to play in that area. In our first year, many of the projects that we kept alive were indeed special-needs projects.

In one of your statements — page 5, question 2 — you end up talking about how the minister can "improve the efficiency and accountability of the OHC." I wonder if you can expand on that a little bit.

**Mr Dempster:** I feel that the present local housing authorities have been very astute at handing back to OHC the problems that are being encountered in every provincial area they represent. Consequently, if that's removed, all that background and work is just going to be washed away, because a new landlord will say: "This is my building now. I don't care what happened before." We have no safeguards whatsoever.

**Mr Maves:** So this statement about improving the efficiency and accountability of OHC is not because you feel that it's inefficient and unaccountable now, but you fear for —

**Mr Dempster:** I feel that if it is abolished, then we're going to be in an awful lot of problems, but if the government decides it can't continue with some sort of a format and dispose of OHC, I think it can save the government an awful lot of headaches and an awful lot of problems from a lot of tenants who are living in housing authorities right now.

**Mr Maves:** One number that you quote in here about this 40% of income — where is that from?

**Mr Dempster:** That was published by the social services. Someone had made a comment. I don't have it, but if you like I can get you the written copy I took that from. There will be another person speaking later on and she has the same draft. He was incorrect. He said that they're presently paying 27%, which is incorrect, because in the local area right now we're running at about 31%. His proposal was that he felt it should be raised to 40%. That was issued from social services out of the city of Toronto.

**Mr Maves:** Which is who from the provincial government?

**Mr Dempster:** I haven't got that with me. I should have brought it, but I can address it to you, Mr Maves.

**Mr Maves:** So this is the city of Toronto?

**Mr Dempster:** It was from the city of Toronto, at a meeting that they had. This was published. Our Waterloo regional committee supplied us with that information.

**Mr Maves:** Because I had never heard anyone in the provincial government quote that figure. Where did it come from?

**Mr Dempster:** We have it.

**Mr Curling:** Thank you for your presentation. You've really put a face to it. The thing that comes out to me is when you talk about the quality of life. That's what housing is about. That's the difficulty we have with this government and that's the difficulty I have even with Lampert — who decided the bottom line and who they should be consulting. You people are left out of this. They're trying to put a figure on that, a cost to that quality of life. You have put that. You have said to them, how can you expect your kids, your boys, to read the blackboard if they don't even have proper glasses at school? That itself has a profound effect later on. The social cost is tremendous. We're talking about education, we're talking about literacy, but I'm not quite sure the government has grabbed that.

I just want to go back quickly on the selling of the non-profit housing, Ontario Housing. There are 85,000 units that the government is speculating to sell off. It goes further than that. They're going to use your money to improve it, to sell it. I've said all along the government wasn't the greatest of landlords either. Their buildings are in terrible shape too. They couldn't fix it then, but they will now fix it on your back to sell it to the private sector and subject you to that. I think if you ever get a chance — and you should — organize yourself and make it very loud to your members that they should take their hands off those homes, because it's the only place, your home, which they're going to sell from under you. Where do you go? They've already made terrible attacks on people like yourself, Angela, who are on social assistance and other people who —

**Ms Schlichter:** I'm not on social assistance.

**Mr Curling:** You did say that you have worked and are subsidized.

**Ms Schlichter:** On social assistance I would be receiving \$820; \$220 of that would be my rent, never mind my other bills, and my other bills are just essentials. I do not have credit cards and I do not have loans. Mine are cable, phone, rent, appropriate insurance and, all totalled, came to \$500 a month when I was on assistance. That would



have left me \$300 a month to feed and clothe my children.

**The Chair:** Thank you very much, Mr Dempster and Ms Schlichter. We appreciate you coming forward this evening with your input.

**Mr Dempster:** Thank you very much. We appreciate that.

1740

#### WATERLOO REGIONAL COALITION FOR SOCIAL JUSTICE

**The Chair:** Our next presenters represent the Waterloo Regional Coalition for Social Justice, Lisa Burke and Lori Lafond. Good evening. Welcome to our committee.

**Miss Lisa Burke:** Marc could not make it, so I'm speaking on his behalf.

There are some issues about youth between the ages of 16 and 18. They fall through the cracks of the community. They cannot sign leases. That's a major issue in this community, especially for me. I was very discriminated against when I got turned down from 10 places because I was in that age category. Sorry, I'm a little bit nervous. I was very discriminated against because I got turned down from all these places because I could not sign a lease. I was married and I had children and I was recognized as an adult, yet I wasn't fully recognized as an adult because I couldn't rent a house or an apartment. That's one of the major issues. I have some ideas to change that, if you can hear me. Just bear with me for a minute.

You can lower the ages for prospective mature renters, or we can expand family and children's services for adolescents as self-help, finding places or allowing some superintendents to act on for renting out to mature students or single mothers. I'm so nervous.

**Interjection:** Take a deep breath.

**Miss Burke:** This is actually my first formal public speaking.

**Mr Sergio:** I thought you were a professional.

**Mrs Ross:** You're doing well.

**Miss Burke:** Okay. Family and children's services cut out a lot. They only recognize children. The age category I'm really worried about is 16 to 18. Through my own life experience it was very traumatic trying to find a place to live. I was married and I could not even sign a lease. I was legally an adult, and that's what really hurt me the most. I'm over the age of 18 now. Now it's not a problem, but I'm just worried about the other people: the mature students, the mature people that don't have families or come from separated families and cannot live at home any more due to circumstances I'm not sure of. Mine were very different because I was married and separated, but everyone has their own individual reason why they cannot live at home.

I think it's a real necessity for 16- to 18-year-olds to find appropriate housing. The John Howard Society and CODA and Lutherwood cut back the counselling services for housing or appropriate housing. I think that's a real necessity to have. They have the self-help books, I realize that, but it's still not working out to benefit for 16- to 18-year-olds, or even the single mothers. They're having a

very difficult time trying to find appropriate housing. Rent costs are extraordinary, especially if you're a family of three and the mother is single. For people on the poverty line there are not enough jobs to pay rent. Welfare does not cover first and last rent. I think that there should be something for the single mothers from the ages of 16 to 18.

I have a couple of ideas for housing services — to have one in each place. Mike Harris did not have to cut back all of the housing. There's none in the K-W area; everything's cut back. It is a real necessity for the youth. The same with another thing, Ontario Housing. The waiting lists are very extraordinary. People who come in the shelters have nowhere else to go. They're on lists. Some people won't take people out of shelters and let them rent from them, because they think they're immature and why did they get to the shelter in the first place? They think they're trouble, and that's discrimination, really. It hurts me.

I've been living in shelters for the longest time, off and on, because I cannot find a place. I've been all throughout this community, Waterloo regional, Argus to Marillac to the YWCA, and nobody will let me in to find an appropriate apartment. They'll let me sign a lease now because I'm over the age of 18 now.

The renting thing, the first and last, there's not enough jobs out there too to pay for last month's rent. I don't even know why we need last month's rent. Can't we just give two months' notice and just keep on paying the first of the month? Because for the single mothers and the youth, it's very difficult to raise that kind of money, especially on the poverty line.

I think that's all I have on my list right now.

**Ms Lori Lafond:** Perhaps I can provide a little back-drop to what Lisa was talking about. I'm a residential support worker at Marillac Place, which is a home for young single mothers in the community here. We also take in some youth on a temporary emergency basis, and their issues range from abuse backgrounds, addictions, what could be typically classified as a street kid. So the issues move beyond pregnancy as well, and we're seeing more of that recently.

We have five spaces available. We've been full to capacity for the entire year and we have a waiting list that is very, very long. We've had to turn many youth down.

We teach life skills training through cooperative living. It's a cooperative living environment that the young women live in. We also have resident support groups on a regular basis there.

I guess to add to what Lisa was saying, beyond some of the more practical concerns that youth face when looking for housing, I think there's also an attitude change that is required here. I've spoken with many youths who've just simply been turned down from seeking housing because they're youth, because they're female and because some of them happen to be pregnant or with kids at a very young age. I think it moves beyond some of the practical concerns that she mentioned. Of course, living on social assistance and trying to find adequate housing out there in this area is very difficult.



It goes beyond that. It's also the prejudiced attitudes that we're dealing with as well for youth.

Beyond that, we're open to any questions any of you have for us.

**The Chair:** Thank you. We've got about three minutes per caucus for questions, beginning with Mrs Ross.

**Mrs Ross:** It's Lisa, is it?

**Miss Burke:** Yes.

**Mrs Ross:** Lisa, I'm the mother of two children, a 19-year-old and a 22-year-old. We often hear from the opposition that members of the government don't have any compassion. I think that's wrong. I would feel absolutely destroyed if my daughters were put in the position that you were in.

**Miss Burke:** I didn't mean to say that you guys don't have children or anything. I have two girls. I know a lot of people who have children.

**Mrs Ross:** No, I just meant that I feel a lot of empathy for you. It's unfortunate that you had found yourself in the position that you found yourself in. None of us wants to see that happen.

You mentioned the housing waiting lists. I come from Hamilton, and in Hamilton we have several organizations. My understanding is that when you want a house, you go and register on a waiting list. That doesn't necessarily mean you get the first available house because on another waiting list there might be a house come up. So what you have to do is go and register on every single waiting list. Is that true here as well?

1750

**Miss Burke:** Yes. I've registered for co-op and they have Ontario Housing and there's subsidized housing. I'm registered on all three, but still they're taking the emergency people, the ones who are in domestic violence and whatever, first and they don't think about the people who are on the waiting list from the community itself who have been waiting three, four years to get into these places.

**Ms Lafond:** A lot of times that's because the shelters and group homes also have extremely long waiting lists.

**Mrs Ross:** What our government is trying to do is to streamline that process and have it all centralized so that when you register on a list, you don't have to go and register everywhere. You register once and you're on the list and you get points. I know you get points now for certain things. For example, if you've been on the waiting list for a year, you would have more points than someone who'd just gone on the waiting list. Would that make sense to you? Does that sound like a way of helping? If you have one place to go and register and you're put on the list, do you think that would help?

**Miss Burke:** Yes, but it's depending on how long it takes because the shelters —

**Mr Marchese:** A couple of thousand years.

**Miss Burke:** Yes, because of the shelters, right? The maximum time limit you can live in a shelter is up to a year, and to get on to the housing list, it could take two years to move into Ontario Housing or a co-op or even subsidized or geared-to-income. It takes so long. I've been to a couple of meetings for co-op housing and you have to do certain duties around the community to get into this co-op thing. You have to go to certain meetings

to receive points. You have to attend the meetings to be on the lists or to get the next available house, and with two children that is very difficult.

**Mr Sergio:** Thanks for your presentation. Lisa, are you still living in a shelter now?

**Miss Burke:** Yes, I am.

**Mr Sergio:** You have two kids?

**Miss Burke:** They're with my parents right now, yes.

**Mr Sergio:** How long have you been living there?

**Miss Burke:** I've been living at Marillac for two months. I got dropped off at the door at a quarter of 11 at night. I've been living in shelter since I've been 12 years old. I've been on my own since 12.

**Mr Sergio:** Just a comment and then if I have time, I'll put a question. What we have heard from you we have heard also from other young people, including students. As Ms Ross said, I truly hope that not only will they have compassion but some common sense, and that if the government they represent is willing to go along and do the changes they are proposing, they will think about it a second time and change some of the things. What you have told us today represents exactly the types of questions when it comes to affordable accommodation. When we hear from all sides that affordable housing is a right of every citizen, I hope they will mean it and I hope that our Premier really understands that.

You are only one of those special-interest groups, as the government is saying, but there is a wider population out there. There are the seniors, there are the people who are not so mobile to go and look for another accommodation, there are students who are more mobile than any other class or group of people, the people on social assistance, and probably you'll find one when you knock at the door who says to you: "Well, where do you get the money? Do you work?" At the moment probably you say you're on social assistance, they don't want you in there. I'm not saying that all landlords are going to say that, but it's a widespread problem. So that is why more than ever we need government intervention. This is not the time to get out of the housing situation.

We have heard from developers, builders, landlords, that they will not build affordable, low-end-of-the-scale units. They won't. There is no money. There is not enough money for them. So tell the government today that they must keep on staying in the house business to provide for those the private industry will not provide for.

I hope your message gets through to the government because if they're going to go through with what they are proposing, it's not going to be any better than what we have now.

**Mr Marchese:** Lisa, I got your name. I'm sorry, I didn't get yours.

**Ms Lafond:** Lori.

**Mr Marchese:** Lori, we have a particular problem in terms of where this government stands and where we stand, on this side. They might say they have compassion, and I have no doubt they do. I'm not about to say they don't, and individually some probably have more compassion than others, no doubt. I judge them on their actions. They cut 22% out of social assistance recipients. You might say you have compassion. On the other hand, when you cut 22% of benefits, that speaks volumes about



where they stand, don't you think? So we have to judge them by their actions, not by what they say.

We had Kitchener-Waterloo Home Builders' Association — I was trying to remember the name of the person who presented — Mr Hallman. He says this in his paper: "The issue of tenants' ability to pay an affordable rent should not be a cost to be borne by the private sector." Somehow they believe they are bearing the cost for some of you. "If tenants are unable to afford a market rent then people, through the government, must decide on how to assist those in need." So I say, we the NDP built non-profit cooperative housing because we believe in it, because it builds communities and it builds around people's needs. So I asked him, "Do you believe in that?" He says no. You ask them if they believe in that, they say no, it's just too costly.

So when you ask who takes care of them, their answer is, "Let's give them a shelter allowance." Do you believe they should tell us what this shelter allowance is all about? How much it might mean? What the government's thinking about shelter allowances? Lori or Lisa.

**Miss Burke:** Shelter allowance — you don't get much when you live in a shelter, at all, plus you're there only temporarily, a maximum of one year. You don't even know where you're going after that. I don't even know where I'm going until July when next year comes around.

**Mr Marchese:** The problem with their shelter allowance idea, if it's based on some organization that's done this, is that the only way you would get some benefit out of the shelter allowance is if their rent is greater than 30% of their income, the recipient is then given 75% of any rent payments which exceed 30% of their income. That's the formula. So if you're paying 30% of your income on rent then that's the only time the shelter allowance would kick in, based on what this organization is saying, the Fair Rental Policy Organization. That's why I'm worried about what this government stands for, because I think they support that position. That's why I've been asking them to tell us what the shelter allowance program looks like, because some of you would want assurances that if they're going to take away the present system, what is the future shelter allowance program going to look like? Are you worried about that?

**The Chair:** Thank you very much, ladies. We do appreciate you coming forward this evening.

PAMELA JOHNS  
DOUG GETTY

**The Chair:** Our next presenters are Pamela Johns and Doug Getty. Good evening.

**Miss Pamela Johns:** I ask your indulgence because public speaking was never my strong suit, so here we go.

I thank you for the opportunity to come here today and be able to address these issues concerning the tenants' protection plan.

I'm not here today on behalf of landlords or any tenants' group but as a tenant or a person with a story to tell. I wish my story was unusual but I'm afraid it's not. I respectfully ask, as you listen to my story, that you try to put yourself in my shoes and imagine what this is like.

I live in a very aged town house here in Kitchener, run by an absentee landlord. Ted Studer, who is my landlord,

lives several hours from the city and has owned this property for over 10 years. I've been in this town house well over three years and I'm a good tenant: quiet, I stay to myself and I pay my rent on time. I'm also a tenant on disability.

**1800**

I've noticed in the time I've been here a wide range of people have come and gone. Some stay no more than one year and move out from lack of repairs. Some are partiers who just don't care. In my opinion, Mr Studer seems to purposely be filling his places with these kinds of people in order to show a massive turnover or perhaps to demolish the building for putting up condominiums in the future.

A few people in the past have tried to get repairs done to their units. Mysteriously, they have been evicted. Some just stay very quiet, not even asking, even though their units are just as bad as mine. They're scared. As you see, I'm not one of these people who has been quiet, and I am desperately trying to get repairs done to my unit. I have had service discontinued to me several times because of this.

Harassment? I have a file at the police station that should be made into a book. Harassing phone calls to shut my mouth "or else." These I suspect were made by the old superintendent. Also, licence plates and a car radio have been taken from my fiancé's car, which the old superintendent told others he would do beforehand; even trying to poison my dog. Or, ladies and gentlemen, how about finding your super lurking in the bushes at 12 midnight at your unit? All for trying to get repairs done? I have gone through this hell.

These things I think have happened to serve two purposes: one, to try to scare me so that I'll keep my mouth shut and not make any more waves and, two, my fellow tenants, some of whom cannot read or write, see this going on and are too intimidated to get involved or speak up for themselves.

I have lived in this unit under conditions where:

My toilet was flushing into my basement. As well, when my neighbour flushed hers, it would empty into my basement.

I have a ceiling all ready to come down at any time from water damage.

There are cracked and broken windows with no screens in them, and in some windows there are no windows. They have never been replaced, letting in snow and ice in the winter months. This makes it extremely cold, not to mention that it plays havoc with my heating costs.

Water pressure throughout my unit is so bad that it takes 70 minutes to do a load of laundry and 35 minutes just to fill up the bathtub, if you are lucky to get water at all. Sometimes there is none at all, depending upon whether your fellow tenants are using their water.

There are rodents galore.

Just asking for a front doorknob or a front handrail, which I have not had in three years, goes unnoticed by my landlord.

In other units there are illegal third bedrooms that have no windows at all. Children are sleeping in these, with no means to escape in case there is a fire. Or the units that do have windows are also without screens. These are just to mention a few things.



I've brought in property standards three times and I have been told that I should simply move out.

I've gone out door to door with petitions where I've collected 250 names from my neighbours, private homeowners, who want to see the place cleaned up. I could have gotten more.

I live on \$930 a month from my disability cheque. From this amount, I pay \$679 on rent. Where do I go? When I have \$251 remaining for bills and food, I can't afford to move.

I suffer from epilepsy that is not controlled and have landed in the hospital three times this year alone from stress and strain, causing many, many seizures. But that's why I fight so hard against what slumlords, not to mention my own landlord, are doing. I fight for what I should already have as a good tenant, because these conditions are just plain wrong. The principle behind my own cause is also one that affects the elderly, single parents, fixed-income families, disabled or challenged persons and of course the unemployed.

How did this happen? I'm still wondering. How did the place slip through the cracks like this? Is it all the landlord? Who else is to blame? I've suffered the full scope of these conditions and still I am wondering as to who may provide me with these answers.

I do know a few things. There has to be strict enforcement so that places like this don't fall along the wayside.

Enforcement: Now, that's another thing. Property standards have to do their job, not give advice such as, "Move out." What is that? To me, it's a simple copout, someone who does not want to do their job. They should be made to do their job. They are supposed to be public service employees.

Affordable housing: How can people like me survive? Al Leach says that we need \$10 billion to fix up places. I say that tenants have already paid this much in their rents and then some. Where does it go? Well, I believe in my case right into my landlord's pocket, never to be seen again.

I have seen this tenants' protection plan, and it makes me very angry. I don't understand where protecting the tenant comes into this at all. As I see it, it protects you, first and foremost, and it helps protect the landlord as well. What about the landlord that does nothing? Do you throw the baby out with the bathwater? I can see no balance in this plan whatsoever.

Again, I say we need affordable housing for people like me; and also have existing housing fixed up. We're talking about our homes, and even in my case my castle so to speak, that we fix up. Our homes are our safe places. Yes, I am as poor as a church mouse, but I'm not an animal, and I should not be treated as such. So why am I made to live like this? I do the best I can, even by putting a few pretty flowers in front of my house.

You take this away for the sake of a buck? I'm very disappointed. When did money come before people's needs and livelihoods?

1810

That may sound naïve and idealistic of me. However, I still believe the human factor should count for more. I can't afford any more rent than what I'm paying. Even this much is too much. It's a catch-22. If rents go up any

more, I'll be one of these people who have the street for an address. Our homes are what dignity we have left, especially those on disability or on fixed incomes. Please don't take what we have. Please don't take our dignity away.

**Mr Doug Getty:** I've known Pamela for seven years now and in that time I've seen some very serious seizures. I don't know if anybody here is familiar with epilepsy. She's had four seizures while she sat here talking to you people right now. I've come home and I've found Pamela in a pool of blood. What had happened was she fell while trying to make a phone call and hit the table and almost busted her nose. All this stress and all this crap that has happened — and we're simply trying to get some repairs — has placed her in such a strain where she was hospitalized for about 10 days just a few months ago.

We were on the verge of moving. We were looking for a place for her to live maybe a little bit better, because when you can't even go down to the basement because you have raw sewage floating around down there it's really disgusting. We didn't know what to do. All the places we found were going to leave her with about \$150 a month to pay bills, which was unacceptable. Our only recourse, as I say, was to move, until we heard about a tenant advocate who helped us out. Sue Taylor has shown us a lot of really neat ways to get the place fixed up under the current legislation. I want to point out that the current legislation does work. Since we have met Mrs Taylor we have had the problem with the basement fixed, we have had electrical problems fixed. We used to have bare copper wires in the basement. Our house was built in 1927. It has a lot of character and it has a lot of potential if it's going to be kept up. But I just mean some simple things, like fixing the rain gutter and some stuff like that which the landlord refuses to do.

I just wanted to make you people aware that the current legislation does work. We are living proof of that. The fact that we've had repairs done for the first time in three years is an indication of that. I want to point out that tenant advocacy does work, because like I say, we were two days from giving our notice when we got Mrs Taylor's phone number. Since then, it has been a lot easier for us. We've had somebody who's borne the brunt of this landlord, his letters and his phone calls and his double talk.

So I want to say a few things. My point is that tenant advocacy works. I'm sorry if I'm repeating myself. The current legislation does work. I want to thank you for your time.

**The Chair:** Thank you. We've got about a minute per caucus. Mr Curling.

**Mr Curling:** Let me just say to you that your case is very moving. As you said, it's common and your appeal should not go unheard, because I think the government is listening. I think going around like this helps. I am sure that my colleagues over there understand that the bottom line should not be just dollars. It's the quality of life which you're striking for that is a right you have. I am glad you're there and I hope many of the cuts that came to advocacy groups are restored, that it works.



**Mr Marchese:** I thank you for your story and I want to tell you that when you say money should not come before people as not being idealistic — it isn't. It should be a basic human practice. When money comes before people, then we have disarranged the whole of society.

We've had a Mr Eby come before us. He talked about his right to do whatever he wants with his property. That presumably is what some landlords want; I'm not sure. But there are some bad landlords and some good. I'm sure there are good landlords and they have problems from tenants, no doubt about that, but we've heard countless stories like your own where landlords are not doing the basic stuff they should be doing. If this present law doesn't work very well — it took you three years — imagine when you take the basic principles out and introduce something that supports the landlord. Then we're really in trouble.

Thank you for your story.

**Mr John L. Parker (York East):** I wanted to pick up on a few points you made, but in the time available I really can't. Let me just say this. You began your remarks by saying that public speaking was not your strong suit. I think you sold yourself short. You spoke very effectively and very eloquently today. You made your point very clearly. Thank you.

**The Chair:** Thank you very much. We appreciate you coming forward and sharing your experiences with us.

PAUL SPENCER

**The Chair:** The next presenter is Paul Spencer. Good evening, sir. Welcome to our committee.

**Mr Paul Spencer:** I would like to thank the committee for hearing me today. I will be speaking primarily on the proposed changes to the Landlord and Tenant Act and the Rent Control Act.

I come before this committee and the government with the assumption that it is fair and unbiased, that it is open to unpopular but reasonable points of view, and that it is prepared to act in the direction of justice even though it may cost votes in the next election. My cynical side says that politicians don't usually take action that will be met with voter opposition and that my efforts are a waste of time, but I must brush those thoughts aside, as I have little other recourse than to try and persuade the government through the power of reason and common sense to take up action that is right.

Provincial legislation dictates that I shall be known as a landlord. Although I simply own rental housing, this elitist-sounding medieval term, "landlord," is what I must be called. I do not want to be the lord over anything, and yet the law of the land insists that this derogatory term is what I must be referred to as. Many uninformed people portray the landlord as an unscrupulous hoodlum who exists in the underworld of greed. The government's own legislation portrays me and thousands of other people who provide privately owned rental housing for Ontarians as someone who must be controlled, and that people who are my customers — the tenants — must be protected.

I operate a small business with my brother. I am a fifth-generation small business man who tries to make a reasonable living from providing housing to people. I am

an honest person and do the best to provide for my family. I believe that what I do is an honourable role in our society, and yet every day I am smashed down by a government that represents that same society.

Why does the government think it is wrong for me to expect to earn a reasonable profit for the service I provide? I am treated with such contempt that every single aspect of my business must be controlled and regulated. No doubt there are some unscrupulous individuals who become landlords, just as there are some unscrupulous individuals who become tenants and even politicians. However, to treat all property owners as the scum of the earth who must be controlled by the force of government is extremely unfair and wrong.

Why can't I deal directly with my customers? Why can't I come to an agreement with my customers about what service I should provide and at what price? Does the government truly believe that my customer and the customers of all rental property owners in Ontario are so incompetent and powerless that they cannot look out for their own best interests? Why does the government have such contempt for tenants?

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I do not feel any animosity towards my customers, yet the government has set up a system of laws that blocks me from dealing in an atmosphere of mutual give and take. My rights have been so eroded that I have no option but to protect them at every turn. Instead of having some flexibility about the way I manage my business affairs, I must preserve my investment to the detriment of the level of service I would like to provide.

I am not here to suggest that the government adopt a laissez-faire attitude. However, I do believe that governments have a duty to implement legislation that is unbiased and fair for both property owners and their customers. They must do this not because it is popular, but because it is right.

After all, what we are discussing here is private property. The property is not owned by the province or any tenant. I own it and am personally responsible for it. I bear all the risk of ownership. If the property fails as a business venture, I am the one who must answer to the bank with my personal guarantee. The government or tenants are not going to save me from bankruptcy. Why should they? However, property owners are not inelastic, a bottomless pit from which the government may extract more and more.

When compared to other forms of investments, I should be able to earn a return that reflects the inherent risk and effort required to own and operate rental housing. The government, however, says no. Profit is not a consideration of theirs when they develop these extremely complex systems of control. And yet they are puzzled about why there is no new construction or reinvestment into existing property.

Rent control legislation was first introduced in Ontario during a time of extreme inflation, wage and price control and political uncertainty. It was promised to be a temporary measure. Since then, successive governments of all three parties have not eliminated rent controls as inflation eased, but rather have made them even more severe. The reason: Politicians have lacked the courage to do what is



right. They have lusted after votes of the largest special-interest group in Ontario: the tenants. The number of property owners pales by comparison to the voter bloc that is held by tenants. But, as I teach my children, might does not make you right. It is the proper role of government to ensure the will of the larger, more vocal group does not defy justice.

No other private sector in our society is as controlled as the residential rental business. In reality, it is expropriation without compensation. The government uses rental property owners as an unpaid extension of their failed social services department. It is a simple and easy solution for governments to use this small sector of society. By passing a law, the government shifts the burden of its social housing problem, which they have been unable to solve, on to private property owners, who must run the gauntlet of personal risk and failure.

The government has tried for over 20 years to manipulate the market to an unnatural end. The result is abject failure for both the property owner and their customers: unnatural because it goes against the interest of the two parties involved. For the property owner it removes the reward associated with providing a quality product at a reasonable price. For the customer it eliminates the benefit of diverse competition.

The proposed legislation will continue to pit owner against customer, to the benefit of neither. I cannot do my best job for my customer if there is no money to pay for the potential benefit. The law strictly prohibits me from doing so even when there is thoughtful agreement from my customer. I would like to be able to provide enhanced service to my customer at a mutually acceptable price. The government says this agreement, entered into freely and without compulsion, is wrong and that the force of the law will be brought down hard to block it. As a result, I am forced to tell my customer that they will have to make do.

What has become of our society when two individuals cannot come to an agreement on the simplest of transactions? I am not talking about the exchange of some illicit or dangerous product. This is about providing housing and related services to people wanting them in a free and open manner. Why is this so wrong? Why can the government not correct this serious inequity? Certainly the proposed changes do not do it.

It would be wrong for the government to force individuals to purchase my services against their will, just as it is wrong for the government to force me to provide my service against my will. Why does the legislation give tenants a right to my property which goes against my interests? By what moral principle does the government take this action? None. It is only the smell of election victory that is in mind.

What is the proper role of government in the area of private residential tenancies? I submit the government is right to establish rules of fair conduct and to act as an independent arbiter of disputes. This concept is not unique to the field of rental housing. It is the proper function of government in all aspects of society: the creation of laws by which free and independent individuals conduct business with each other in good faith, supported by a mechanism that will protect their interests.

What is the interest of the property owner? It is to earn a reasonable profit from their investment. As with any other investment, the market should determine the return. If the investment is in rental housing and there is inadequate profit or an atmosphere of uncertainty, as we now face, the results will be a significant reduction of new construction and reinvestment and a loss of capital, both of which we are witnessing today.

What is the interest of the tenant? It is to have a place they can call home that is clean and quiet and where the amenities are properly maintained at a fair price. A component of the fair price must be a profit. Any reasonable tenant would accept the notion that the property owner is not investing and working merely to cover their costs. While there is personal satisfaction in providing what should be an honourable service to society, it is absurd to think of property owners only as philanthropists.

The problem, however, is that this is exactly how property owners are treated by government. Against their will, by the force of law, they have been enlisted as unpaid employees of the Ministry of Housing. Their duty is to give up their capital, the fruits of their labour, to a much larger voting group.

It is time this is stopped. It must be stopped for tenants, who need a choice in rental housing at competitive rates. It must be stopped for property owners, who do not deserve to be treated as second-class citizens. Stop the mindset that says landlords must be controlled and tenants must be protected. The proposed amendments to the existing residential tenancy legislation fall far short of what is needed. I appeal to this committee and the current government to do what is right instead of continuing to do what is clearly so wrong.

**The Chair:** Thank you, sir. We've got about two and a half minutes per caucus for questions, beginning with Mr Marchese.

**Mr Marchese:** Mr Spencer, were you here for the presentation that Pamela Johns made?

**Mr Spencer:** I'm not sure. Just before me?

**Mr Marchese:** Just before you.

**Mr Spencer:** Yes, I was.

**Mr Marchese:** You didn't hear other people, did you, by any chance: Mr Dempster and Ms Schlichter and the Estates Tenants' Association?

**Mr Spencer:** I'm not sure of the names. I've been here for a couple of presentations.

**Mr Marchese:** What is your reaction to their stories, at least the ones you heard?

**Mr Spencer:** In what respect? If there is a need within society to support people who are unable to provide shelter for themselves, perhaps there is a role for government to play there. However, I do not think the private landlord should be the bearer of such a burden.

**Mr Marchese:** Ms Johns has got a disability pension. She's paying her rent. She's being harassed by the landlord. She catalogued a whole litany of problems with the landlord. How do you deal with that? How does one deal with that? Does the tenant need protection?

**Mr Spencer:** As far as I know, within the city of Kitchener there is a property standards department that acts quickly on such disputes and deals with them efficiently. That's the proper —



**Mr Marchese:** Right. The property standards people told her to move out. A typical story: "Move out."  
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**Mr Spencer:** You should speak to the property standards officers then. I certainly don't deal with my customers that way.

**Mr Marchese:** I understand that. That's why I say that —

**Mr Spencer:** And many, many others don't deal with it that way.

**Mr Marchese:** I agree with that too.

**Mr Spencer:** The problem is that people, and especially people who oppose the concept of privately owned rental owners, feel that the burden should be carried by them alone —

**Mr Marchese:** No, Mr Spencer.

**Mr Spencer:** — and that they are all painted with the same brush, which is that they are unscrupulous.

**Mr Marchese:** Mr Spencer, we've heard of case after case across this province of abuses of landlords against their tenants. That's why we put protections in place. It doesn't say all landlords are like that, but because of abuses in the system, we need protection in place, because there's a power imbalance.

**Mr Spencer:** There is protection in place.

**Mr Marchese:** But there isn't.

**Mr Spencer:** The property standards laws do protect the tenants against these types of things.

**Mr Stewart:** I want to talk to you about these property standards things too. You're bang on the money. The municipalities are passing the buck on this thing. The municipalities pass bylaws on property standards, and why aren't they enforcing them? We're hearing about the previous lady, and I feel for her. Those types of landlords should be out of the business or forced out of it.

**Mr Spencer:** It's not a lot of landlords.

**Mr Stewart:** We heard this afternoon from a gentleman who says if landlords like that will not do it, the municipality, under the property standards, should go in, fix it up and put it on the taxes.

**Mr Spencer:** I have no problem with that.

**Mr Stewart:** But they won't do that. Ontario Hydro does it. You can rest assured if the hydro isn't paid, it goes on.

My concern is I'm very annoyed that a lot of the landlords, as well as tenants, seem to be labelled, and municipalities have to start to take a little bit of authority on this.

My comment to you is, first of all, you're right. We've got a mindset in many folks' eyes that the landlord is the bad guy. How do we solve some of the problems? This is a discussion paper, and every time we go through this, Mr Marchese stands up and says, "What's in that that's any good?" Maybe none of it is, but it's a discussion paper that we want to talk to people like you and all these people out here to find out a better way, because sure as heck what we've been doing isn't working. So I would like you just to make a couple of comments — and I'm rambling — about how you see it could be solved.

**Mr Spencer:** Clearly, what has been done for the last 20 years hasn't worked. I don't think we're going to get

any argument on that point, but I agree with the Premier when he says that an open marketplace is the best control of rent.

**Mr Curling:** Mr Spencer, I appreciate your contribution, and I have no doubt that you must be a very good landlord. We don't live in an ideal world, and that is why we have legislation. That is why we have government.

Twenty years ago or so, rent control was brought in when the landlords, those terrible guys — there were terrible ones — who were flipping and passing on the buck to the tenants.

**Mr Spencer:** A couple. Don't paint them with a broad brush, as you love to do, and as you continue to do.

**Mr Curling:** I didn't say all of them. I said those —

**Mr Spencer:** You said "landlords." There were two, if I recall.

**Mr Curling:** If you listen to me, I said those landlords who were flipping, who were flipping, those landlords, passing on the buck to those tenants.

In 1985, when I was the minister, I put together landlords and tenants and asked them to come up with a reasonable solution, landlords and tenants, not me, a politician, dictating. They did come up, FRPO and all came up with a solution, not perfect, but within that, Mr Spencer, they took into consideration profit and said we must recognize the word "profit" within it. They did get a profit.

**Mr Spencer:** I beg to differ. I was involved in the system when you were the minister, and there was no profit consideration.

**Mr Curling:** But today you have a legal maximum rent that you can charge for that. The problem — you are right — the problem is affordability. Those who'd like to access accommodation can't afford it. You who are the businessman, who'd like to charge more — and you can; we give you that allowance.

**Mr Spencer:** Who says? What makes you think that?

**Mr Curling:** You can. The legal maximum rent is there to do that.

**Mr Spencer:** No, but you assume that the reason we want to have rent controls eliminated is to jack up the rent. I've been hearing it throughout these hearings.

**Mr Curling:** I didn't say that at all.

**Mr Spencer:** You just said the reason we want to do it is to increase rent.

**Mr Curling:** I didn't say any jacking up of the rent.

**Mr Spencer:** I don't want it for that reason.

**Mr Curling:** I said the opportunity is there for you to charge whatever you want. The free market —

**Mr Spencer:** We charge what is fair.

**Mr Curling:** You can charge whatever fair —

**Mr Spencer:** Whatever the market will bear.

**Mr Curling:** That's right.

**Mr Spencer:** I cannot charge what the market will not bear if the system were open and free.

**Mr Curling:** That provision is there, Mr Spencer, for you to do that.

**The Chair:** Thank you, Mr Spencer. We do appreciate you coming.

**Mr Spencer:** Thank you very much. I would just like to add that if there is some way in the future that I can participate and assist in any way possible to improve the



system, I put my name forward to do just that. Thank you very much.

**The Chair:** Thank you. We appreciate it.

#### WATERLOO REGION TENANTS' COALITION

**The Chair:** Our next presenter is Barbara McGrath from the Waterloo Region Tenants' Coalition. Good evening. Welcome to our committee.

**Ms Barbara McGrath:** Good evening. As introduced, my name is Barbara McGrath. I represent the Waterloo Region Tenants' Coalition, which was formed as a result of the proposed changes in the New Directions for Discussion paper by a group of concerned tenants and different agencies which represent tenants in this region. The challenge before me in one of the last time slots allotted before the closure of these hearings and as you wind down another long day is to somehow try to retain your attention, present a meaningful message which will fully impact our concerns, while not repeating everything you have already heard several times in your travels around the province.

Because of the diversity of housing needs within the many different groups in our society — the disadvantaged, the working poor, the homeless, single mothers, native and ethnic peoples, people with disabilities, women and seniors — it would be impossible during the allotted time to make a presentation which properly addressed, represented and did justice to issues of concern on behalf of all parties.

Over the past three weeks, many representations covering the housing needs and problems within each of these specialized segments of our society have undoubtedly been made to you. I will not try to duplicate or condense those issues. Instead, I will try to cover the plight of the general housing concerns which exist in our region.

This is truly a stressful time in most people's lives. The major changes taking place within our basic social structure accelerate and compound the stress. The agendas at all levels of government are gloomy with restraints and cutbacks. Throw in the double-edged sword of unemployment, which affects income and, therefore, both an individual's physical and mental health, the lack of accessible and affordable housing against governments under pressure to reduce the deficit by cutting back on the social spending which would assist these individuals to regain their footholds in society, and you have a formula not only for the erosion of our community infrastructure, but a time bomb waiting to explode.

We hear constantly about the working poor, those individuals and families in low-paying jobs or who work several part-time jobs just to sustain themselves and who, due to the high cost of accommodation, have to pay more than the government acknowledges is a reasonable rent, often 50% or more of their income. Not only does this income become further eroded with each rent increase, but they slip further and further down the societal scale. How does one save enough money to accumulate the first and last months' rent demanded by most landlords, even if more affordable housing miraculously presents itself?

What happens to people financially when they become unemployed or have to leave work, with their only source of income becoming government assistance? It's called poverty. Throw in a disability, and you again have that double-edged sword. A lot of landlords don't want people who are on benefits or who have a disability. Often these two factors effectively shut out anyone from the general housing market. They are put on waiting lists or turned away with excuses.

In today's market, government-subsidized housing provides the main source of affordable housing for these individuals. The recent explosion in the number of homeless people, those who require shelter and no longer have a place to call home, has surpassed the ability of many local governments and social agencies to deal with the growing crisis.

The largest overall problem is affordable housing. Put quite simply, the demand outstrips the availability. There are few alternatives. Obtaining private, safe, sustainable accommodation is only a dream for many and beyond imagination for others. More housing options are required for individuals, couples, families, the disabled and seniors in order to offer a variety of choices to accommodate ever-changing lifestyles.

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Without addressing any of the other infrastructure problems, the proposed tenant protection package announces that it will amazingly be able to give tenants the choice both in where they live and how much rent they pay by (a) encouraging landlords and developers to invest in rental housing and making much-needed repairs to the existing stock, and (b) negotiating the rent charged on vacant units. If nothing else, these proposals can become incorporated into the aforementioned unobtainable dreams for most of us. Why? A good local example:

One of this region's largest developers and landlords, with more than 3,000 rental units, has gone on record stating that local building will not be stimulated in this area "because people won't pay \$900 a month in rent. That's what we need to build a new building and that's why we have a foundation just sitting in Waterloo." Addressing rent increases, he indicates: "Once rent controls come off, all my competitors should jack their prices up by 50%. I'll keep mine down and fill my buildings." Yet this same builder, who is publicly heralded for his major philanthropic donations, let one of his buildings sit empty over recent years until he could get the rents he wanted, rather than provide affordable housing.

As a disabled and seniors' advocate, one of your own government agencies recently asked me to assist a couple of disabled tenants who were threatened with being evicted from one of this landlord's town house complexes. These individuals, both in wheelchairs, who had resided in two of the special-needs rental bungalow units, obtained and subsidized through a government authority, were unexpectedly given first option to purchase their units through phone calls from real estate agents. Totally unaware of what was taking place and in no position to purchase, they became traumatized when real estate agents began to constantly phone or appear unexpectedly at their door with clients.



Investigating, it was revealed that although the development had originally been built and registered as a condominium 10 years prior, due to the poor economic market since inception, it had been advertised and filled as a rental development. When informed, the government housing authority who indicated they had a contract for so many subsidized units within the complex would not admit their ignorance of the situation. The disabled tenants who were about to face losing their home faced a six- to seven-year waiting list for replacement accessible housing. Why was the status of this development kept buried for 10 years, affecting so many renters who now had to scramble to try to find other accommodation?

Since many of the owners in this developer's homes and tenants in his buildings are now senior citizens, and being an astute businessperson, this builder has recognized the rapidly changing demographics. He has recently diversified into both building retirement residences and specializing in the delivery of home health care and related services to the elderly. Go with the flow. In this instance, it means to follow the secure money. Why invest in competitive rental housing and negotiate over vacant rental units when an easier market is now readily available?

Another of the housing shortage solutions is not to reduce the stock of existing, let alone affordable, housing from the rental market by allowing it to be removed under proposed revisions to the Rental Housing Protection Act. Here I can relate firsthand experience, having lived through the conversion process for six stressful years. Due to time restraints, I will only highlight key issues.

Upon moving to the region in 1974, I was fortunate to rent a town house in a new development which had just been constructed under one of the federal government's housing initiative programs. The rent was at full market value, geared to income, established and maintained by CMHC for the first 10 years. In 1985, the development was sold to a numbered company. In 1988, this numbered company was split into 52 numbered companies and the units offered for sale as an investment in a cooperative.

This investment offering was challenged by me and altered. While empty units had been refurbished, existing tenants were informed, if interested, we could only purchase the unit in which we resided and do any repairs at our own expense. A very minimal rebate would be allowed. Through hidden flips and reflips, the units escalated in price. Since the owner held the land, he took back both the first and second mortgages against the investments. Meanwhile, unbeknown to the investors, the development was secured as collateral against the demand loan for this owner's expansion into other business ventures.

As mortgages came due in the depressed 1990s, they were not renewed and couldn't be by either the banks or anyone else. The investors discovered that without the land, they didn't own anything, but if they paid for the process of converting their investment into a condominium, they would. The conversion process started. The remaining tenants opposed it. The harassment began.

My tires were slashed 13 times, the windshield smashed twice. The storm door was kicked in. Gasoline

was poured around the foundation of my unit and on my rosebushes. Flowerbeds were torn up or trampled. A German shepherd was ordered to attack me. Even my bicycle tires were slashed. For almost two years, the conduct of these upright citizens brought the police to the development on a continuous basis.

The other tenants began to move or make themselves scarce. I stood alone. I sought the protection of the mayor's office and the chief of police. Even though the development did not meet the conversion criteria, and despite the conversion refusal recommended by the municipal planning department, the city council approved the conversion. Lifetime tenancy was given to the few remaining long-term tenants.

Within a year after the conversion, most of the units were again empty, due to the downturn in the economy when many lost their jobs and others were forced into bankruptcy. One guess who picked up the units, often by default, at the depressed prices and resold them.

As part of the conversion process, replacement housing is supposed to be available or in process to replace the units exiting the rental market for the displaced tenants. The replacements were either sale units, student housing or empty lots which were covered by issued building permits. If there was no place to go then, where would a mass exodus of tenants go now if all restrictions were removed and wholesale conversions, demolitions and major renovations begun? Factor in the removal of rent controls and negotiations to the highest bidder for the empty units, and you will witness the unprecedented decay of a complete society.

The right of first refusal to purchase aging rental stock can be clarified in what happened in our development. Not only does a development have to be brought up to a certain conversion standard — or is this why it is suggested municipal approval will no longer be required, ergo forgoing standards? — but a year's basic operating cost must be kept in reserve, ongoing maintenance has to be funded, plus each owner is responsible for maintaining their own unit. Where the tenants who knew both the history and the condition of the development and units would not invest, many ignorant outside buyers leapt before investigating. Should this not be a warning sign to the regulators during any conversion process? Aside from the lack of money to purchase, why are the existing tenants not interested?

Instead of one landlord, the majority of units in our development are now re-rented by their new owners, novice landlords, unfamiliar with landlord and tenant policy, at twice the approved rents. Under current tax law, if they fail to show a profit in this new venture, they don't lose; it can become a tax deduction.

Lengths of sitting tenure for a conversion? If tenants don't have any place where they can move, whether it be a conversion, demolition or renovation, what happens to them? The wrong question is being addressed here. Add to this the fact that they will still have to move out at the end of their sitting tenure and are no longer protected by a reasonable rent that kept them sitting tenants in the first place; they will then become vulnerable to escalated rent increases by the simple act of being forced to move.



Move-out compensations were discreetly offered and taken by a few of the tenants in my development, ranging anywhere from a few hundred dollars to a few thousand. The tenants who took the buyouts soon returned, trying to get back into the development with a rent they could afford on an enduring basis.

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One of the stipulations of the conversion was that the maintenance level of the units occupied by the tenants, which had been ignored for years, was to be fully addressed. None of the expenses was to be passed along to the tenants in the form of rental increases or otherwise. Two years after the conversion, these repairs have still not been done. Contacting the city, I was advised they did not have the power to enforce this stipulation in a conversion. Why, then, was it made?

During the conversion process, many of the new owners started fixing up their units. One of the most common alterations was the addition of another bedroom in the basements, which, according to fire department inspectors, were illegal. Many of these units were subsequently falsely advertised and then rented out. For example, a two-bedroom was advertised as a three-bedroom unit. Many of the new renters who required and were paying for a larger unit, when surprised by a fire inspection, heard about this irregularity for the first time and were informed the alterations had to be removed immediately and of the possible fines and charges if not.

The ensuing problems between these tenants and the individual landlords became nightmares and bordered on fraud. Some of the owners who had purchased the units with the additions already in place were unaware of the violations. Many units were also discovered to be illegally or improperly rewired by these amateurs who were doing their own major repairs in order to save money, with the safety of the adjoining units and occupants obviously ignored. To remove the municipality and their standards during any proposed conversion or renovations would be an invitation for disaster.

However, the key issue I would like to address is the property tax. During the conversions process, this issue kept resurfacing as a bonus for the tenants. Both the condo lawyer and the city kept referring to the rent reduction that the tenants would benefit from due to the reduction of property taxes once the development changed from a commercial to a residential reclassification. Since it is the duty of the owner to pass this reduction along to the tenant in the form of a rent reduction, I patiently allowed a year to go by before starting my inquiries.

Property taxes are based on the value of property and are usually collected from the owner of the property. However, some cities collect taxes directly from tenants when the owners do not pay their bills, ergo the individual landlords now. All tenants pay municipal property taxes through their rents. Section 17 of the Assessment Act states, "Land shall be assessed against the owner thereof and against the tenant." Taxes are assessed on all rental housing, whether it is private, public or non-profit, with many tenants paying three or four months' rent per year towards property taxes. According to the Ministry of Housing, if a significant reduction in taxes occurs, then a form 5 application to reduce rent can be filed.

Imagine my surprise upon contacting the local assessment office to discover what really happens under the act. A rental unit does not get a tax reduction upon conversion unless the owner lives in the unit. Therefore, based on the listed market value of my unit, if the owner lived in the unit, the tax rate would be 4.8%, or \$1,872. Since I, the sitting tenant, remain in the unit, the tax rate remains at 12.4%, or \$4,836 for a 950-square-foot town house. However, if an owner moves into a unit and then moves out and re-rents the unit to someone else, the unit remains taxed at the lower owner-occupied or condominium rate, no matter what rent is charged. When the new actual value assessment system is undertaken across the province and prior to its implementation in 1998, it is sincerely hoped that the foregoing unfair tax assessment procedure will be thoroughly reviewed and revised.

A 1994 CMHC survey for the Waterloo region showed what most developers already knew about the market for condominiums in this area: There are too many. "About 51% of all apartment condos are in the rental market, rather than being occupied by their owners. About 36% of row condominiums were in the rental market, while 6% are still owned by their developers. The proportion of condominium units which are in the rental market or developer-owned and for sale reflects the extremely oversupplied condition of the condominium market." And this is from CMHC.

A recent report by a United Nations agency issued a crisis warning about the world's population shift from rural to urban living:

"The population shift is so dramatic the world population report predicts growth of cities will be the single most important influence on development in the first half of the next century. Such a massive population surge will put added pressures on cities already struggling to provide residents with adequate shelter. Many of the new urban dwellers, particularly women and their children, will be among the poorest people in the world. Poverty has not kept pace with urban growth. Still, the total number of people living below the poverty line continues to climb. People living in cities can't meet their basic needs for shelter, water and health resources."

We must not feel that this world report does not affect us. With more than 100,000 renters already in the Waterloo region, any removal of affordable rental housing from the market is a crisis. As our elected politicians, we have placed our trust in you and must assume that you will honour our trust in your decision-making policies.

As a seniors' advocate, I was also going to make a submission on behalf of the coalition regarding a major violation and issue of safety which should be addressed to protect all seniors who reside in retirement homes and are supposed to be protected under the Residents' Rights Act, but due to time, I see that I am followed by someone scheduled for a presentation covering care homes, so will trust that the issue is covered by her.

On behalf of the coalition, I thank you for listening.

**The Chair:** Thank you very much for your presentation, Ms McGrath. You've effectively used up your 20 minutes. We appreciate your input this evening.



## OVERLEA SOCIAL GROUP

**The Chair:** The next presenter, from the Waterloo Region Community Health Department, is Carol Popovic. Good evening and welcome to our committee.

**Mrs Carol Popovic:** My name is Carol Popovic and I am from the Waterloo Region Community Health Department. I work in the adult program and a lot of my work involves work with seniors, and part of that work involves an advocacy role, especially when it comes to issues that will impact their health.

The group of seniors that I'm representing tonight is called the Overlea Social Group, a group of seniors who have recognized the need for improving their social atmosphere and have worked very diligently in making that happen for themselves in their building. My involvement with the group as a public health nurse is to help them enhance their own physical and social resources, which in turn will have a positive impact on their health. This group has had an opportunity to review your proposal, New Directions, and as a facilitator for the group I am speaking on their behalf. Oftentimes speaking in this manner is quite stressful and I wanted to help alleviate some of the stress in speaking for them.

As you've heard earlier, people on fixed and low incomes cannot afford rent increases, and I think that came across quite clearly when the North Waterloo Housing TAC people were speaking. It has only been through the support of Ontario Housing that this group has been able to meet the basic necessities of everyday living. The cost of this support is very minimal, and if you see appendix A, in part 2, you'll see the average cost per unit per month for maintaining North Waterloo Housing units.

However, the proposed changes in housing and rent control will place an additional financial burden on people and they will no longer be able to afford their basic needs. As you've heard earlier, most of their limited budget already has to include food, hydro and transportation, and for this group of people who are disabled and are seniors, it also has to include home support services, medical expenditures, telephone, etc.

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Although research may show that overall poverty among seniors is decreasing, there are several subgroups to which this does not apply. As you'll see in appendix B, some charts there show the average income of seniors. Some of the demographics of the at-risk group includes the following:

Poverty among the elderly has a gender bias. In 1992, 53.1% of single females were living in poverty.

The rate of poverty for unattached elderly individuals, at 43.8%, is still very high in a country that's rich.

A combination of government benefits for seniors overall have only lifted them slightly above the poverty line.

What does this mean for people like the Overlea Social Group? The realities of poverty are lived by this group every day of their lives. They are living proof of these statistics. For example:

Most of them are women or they live alone.

Married couples are a minority. Most of the apartment complexes in North Waterloo Housing have only two to three couples per 50 or 60 units.

Most of these of course being women, and being in the work era of their time, did not have long work histories or they worked in very low-paying positions.

Most of them rely on government supplements such as old age security, guaranteed income supplement or welfare, if they're below 65, for an income source.

Some of these tenants have mental or physical disabilities. A lot of the tenants — I don't have a percentage for you — are frail senior citizens. Their health is very precarious.

Presently their income barely covers their expenses. If you refer to the chart below, you will see what their operating budget is. Fortunately, most of them can afford their basic living needs because they've paid less than 30% of their income on housing. The chart below demonstrates their net income after the 30% deduction.

Over 65, you get an OAS and you get a GIS, which is income-gear, for a grand total of \$870.81 a month. If you subtract your rent you'll get \$609 surplus. If you're widowed, between 60 and 64, you can get a widowed spousal allowance, and if you subtract the rent, your operating budget is \$545. If you're below 64 and you are living on general assistance or social assistance, the maximum you get is \$520 a month and the maximum shelter allowance is \$325 maximum. Not everybody gets this. So if you minus the 30%, you have an operating budget of \$364.

Earlier I stated that most people are able to meet their basic needs because of the support given to them by Ontario Housing. But I want to stress that even with this support, some people are struggling. One of the group members I know personally must survive on an income of less than \$500 per month. What is life like for this person? I asked her a few key questions, and you'll see it's attached; it's A Personal Story.

**Q.:** What is life like living on such a limited income?

"Life is sheer living hell, living month to month without knowing whether you're going to make it, worrying, 'Do I have enough money to pay my rent, get groceries and buy the essentials like medications?'"

**Q.:** How has it affected your health?

"Healthwise, things are tough. I have a lot of pain in my legs, my blood pressure and blood sugars are high. I get very depressed. But it's not surprising, because on this money you don't have a life. You can't buy anything. Others go out and buy little things for themselves. I can't. You want to go out with them but you don't because you are too embarrassed. You haven't got the money to pay your own way.

**Q.:** What stops you from working?

"You don't want to be on welfare but you can't go back to work as the doctor states you can't," that you're not physically able to, "and when Canada disability pension turns you down, what other options are there?"

**Q.:** What will happen if you lose Housing and have to pay more rent?

"I don't know. There are days when you want to walk and not come back," meaning, "You just don't want to go on living."



We are asking the government to consider some of the long-term costs of the proposed policies in the health and social sectors. People who have limited incomes and cannot afford clean, safe housing will become sick and dependent on others. Some of the key factors in maintaining good health include good living conditions and social supports, and that came from the Premier's council on health. Income is a powerful determinant of health, as it determines the ability to afford a warm, safe shelter, healthy food, transportation and medical necessities such as medications and living aids. Any proposed changes that will further decrease the limited income of these people will have an impact on their health and the services they require.

For example, there may be an increased need for institutionalization of seniors if they're not able to live independently in Ontario Housing. Withdrawal of supports will impact their ability to maintain their independence. If they're not able to manage on their own and are not able to find suitable housing, they may be institutionalized. I did a little survey and I found that the cost for institutionalization is about nine times more than it costs to maintain these people in their own home in Ontario Housing. You'll see that in appendix A as well. The cost to government per month, minimal, for a local nursing home is \$2,124. The operating cost — these numbers were given to me by North Waterloo Housing — is \$240.81 per unit per month. If you divide the two, you get 8.8 times the cost.

Also, increased demands on overstretched communities or families may result in punitive attitudes towards seniors or the disabled that could result in higher rates of abuse. Studies have shown that caregiving stress may be a contributing factor in elder abuse and that a lack of societal concern, inadequate housing and community supports are high-risk factors which precipitate elder abuse.

The proposals in New Directions do not address the government's intentions with Ontario Housing, but this group is concerned, and the reason they're concerned is that they went to a local MPP's office and asked, "What does this government intend to do with housing?" and the answer that was given to them was that the government intends to sell housing.

They're extremely worried what this will mean for them. How will these tenants be assured that their sitting rights and their basic living requirements will be met? What happens to them if their building is sold to the private sector and their units converted into a condominium? As stated previously, these people do not have extra money to pay in shelter costs and many are not in a position to buy into converted housing. For many of these physically compromised seniors, finding another suitable rent that will fit their physical needs and pocketbook will be difficult. The only other option for some of these people may be a nursing home. Considering the social and medical costs of institutionalized care, is it not more prudent to provide adequate rental controls and continue support through Ontario Housing?

Our second concern is that there is a lack of affordable housing in the Waterloo region, and I'm sure you've heard that today. Some people are of the opinion that only large cities experience a lack of affordable housing,

but this is a myth. Smaller communities such as Waterloo region are lacking too. I've included at the back an insert from CMHC's local market report of October 1995 that demonstrates the lack of affordable housing for people who are single. Vacancy rates for a one-bedroom apartment less than \$399 per month is zero per cent, and if you remember, the maximum shelter allowance given to people on welfare is \$325. Anything less than \$619 is at 1.9%. You can look at the charts attached.

These vacancy rates do not meet the needs of people with limited incomes. For a general welfare person with maximum welfare income, they would be in a deficit of minus \$99 if they had to rent an apartment at \$619. As you see, excess funds are very limited for the other people.

Few of the people with this net income would not have enough money for food or hydro, and with the possible privatization of housing, these are the choices people will face. The question we must ask is, where will these people go? This government must ensure that housing remains within the reach of people like the Overlea Social Group.

We looked at some of the policies put forward in New Directions and we found that they do not ensure that the cost of rents remain affordable and the rights of all tenants are protected. We feel that some measures need to be taken to ensure that housing remains affordable and equitable. What we've done is we've listed our concerns with your proposal and then we listed the recommendations on the right-hand side.

Our first concern is that landlords will be able to have a sustained rent increase beyond the present 2.8% guideline due to proposed changes in capital expenditures and extraordinary operating costs, without a corresponding decrease after renovation or operating costs may have been decreased. We felt that this will encourage ever-spiralling rent increases. Our recommendations are that tenants should have direct input into the building costs through consultation and consensus; that once a cost has been paid for, tenants should have a subsequent decrease in their rents; and that perhaps joint tenants, landlords and government agency associations could form a local monitoring body so that the power and decision-making is equalized.

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Our second concern is that maximum fines for negligent landlords are not incentive enough. Our recommendations are: Landlords who fail to follow through on their renovations in a timely fashion would not be allowed rental increases, and those who do not provide a safe, clean environment should face a substantial minimum fine so they're not just getting a slap on the wrist.

Our third concern: Rent controls protecting sitting tenants only. Often the health of older adults changes rapidly, and today is a case in point. We had one individual who was very ill and couldn't come tonight, and another one is waiting to hear news of a loved one who is dying, basically. The health of these people is very tenuous. Often, their health changes rapidly and their housing needs change with it. We felt that all tenants require protection from exorbitant rent increases.



Our fourth concern is that with the removal of the rent registries, tenants will not know whether rent increases are legitimate. We feel that tenants need to know what the limit is for extraordinary operating costs and whether other rental increases are valid.

Fifth, many tenants who are aged or disabled will be more vulnerable to exploitation and landlord abuse. Some of these people require special access needs and apartment supports and may be seen as less-than-desirable tenants. The fast-tracking of evictions as proposed will only increase their vulnerability. We felt that your recommendation on a fast-tracked anti-harassment policy was good; however, the policies need to be clearly defined and easy to implement. To date, we know that harassment has been a very difficult charge to prove and to follow through on any kind of action.

Sixth, with the removal of the Ontario Advocacy Act and legal aid services, the most vulnerable will not have their concerns heard in a timely fashion at a cost they can afford. We felt that advocacy roles must be maintained to assist people who are vulnerable and who have limited resources to pay the proposed application fees in your discussion paper.

Finally, the new dispute resolution system will take time to operationalize and may be difficult to access. We felt that the system must be 100% user-friendly for all tenants. For example, many of the seniors still use a rotary phone. Have you ever tried to reach a government agency using a rotary phone. It's "Push 9 for so-and-so and 5 for the next office."

Lastly, the government must be willing to consult with special-needs groups to ensure that the new system will be accessible and affordable for them.

In conclusion, we feel that more protection is required for all tenants, especially for those who are income limited. Everyone in this province has a basic human right to warm, safe shelter. We expect our government to keep policies in place that ensure affordable housing. With the rich resources we have in Ontario — even though we are feeling a little pinched now, we're still very rich — no one should be forced to choose between shelter or food. The health and general welfare of our community is government business. More direction is needed in your proposals to protect the most vulnerable in our society and to give them a voice.

Members of the Overlea Social Group are here. I have two of the ladies, and I'm going to ask them to stand, if you have questions, and maybe they can join me at the table.

**The Chair:** Unfortunately, you have used up —

**Mrs Popovic:** Have I used up my time? I'm sorry. I just want to thank you for listening to our concerns. We do have faith that your decisions will reflect the input we've given you today.

**The Chair:** Thank you very much, Mrs Popovic. We appreciate you coming forward and giving us your input.

#### CONESTOGA TOWERS TENANT COMMITTEE

**The Chair:** The Richmond Tenants Association, the next presenters, have cancelled, so that brings us to our last presenter, representing the Conestoga Towers Tenant

Committee, Lynn Piller. Good evening. Welcome to our committee.

**Mrs Lynn Piller:** I'd like it if you'd had that extra time to allow her to finish her presentation, but anyway, you didn't.

Good evening, panel members and concerned citizens. We have 163 apartments in Conestoga Towers. As president of our tenant committee, I represent both the tenants and the residents. Residents are defined as full-service care tenants who pay an extra charge for all the personal services, such as lunch and dinner in their own dining room on the main floor, nursing care, weekly bath, laundry, apartment housekeeping and recreational activities planned for them. So we have both in our building.

When my husband and I moved into Conestoga Towers on December 1, 1989, we were not told that a great upgrading of this building was planned for early 1990. We were not told that tenants would be notified of a 28% rent increase to them for this upgrading. We were not told that this building upgrading and costly unnecessary embellishments would be at considerable inconvenience to the tenants for many months.

All day long and often even into the evening we were inundated with noise — pounding and hammering and sawing. This went on five and six days weekly. Also, our three elevators were continually in motion with these workers, equipment and supplies being taken for some five months up and down these 18 floors. This supreme effort was to complete the onslaught of work before the deadline of the carry-forward allowed under the newly effected Rent Control Act.

To give you a slight idea of this nightmare of just over a \$1-million cost, all windows in the entire building were removed and replaced. All stoves and refrigerators were removed and replaced throughout the entire building. All lighting outside every one of the apartment doors — 163 of them — was removed and replaced with energy-efficient lights, but I didn't see any reduction in our hydro bill. All walls in the hallways of 14 of the 18 floors were completely replaced. That's the plasterboard, wallpapering, baseboards, painting and everything under the sun. Even our elevator walls had to be replaced twice. The first time, I guess they used improper materials, so they replaced them again. Our lobby was painted twice, the first time in an incorrect colour. They discovered that all the rest of the building was in old rose and grey; they repainted it, and now it's in wallpaper. The front of our building was embellished with red awnings, front and back, and this was only to help us look more like Victoria Place.

Please find in the back of your paper a detailed list of more of these things, because there were just so many of them it was ridiculous to try to mention them. However, tenants were expected to pay the 28% rent increase for the upgrading of our landlord's building, from tenant apartments to full-service resident care.

A few weeks after our day in court, I met with Mr Rozena. He's one of the two owners of our building. They also own four other buildings, besides ours. I was very impressed with this man. He seemed very gentle and understanding and kind, but I marvelled when I thought about it how even a seemingly good landlord could be



persuaded to increase his profits and upgrade his real estate at the expense of tenants, many of whom are on fixed incomes.

If there hadn't been any rent control in effect at that time and no rent registry, we would have had to pay 28% rent increases monthly or find another home. If there was no rent control and no rent registry, we'd have had no knowledge of what our rents should have been, and of course if there was no rent control and no rent registry, there would be no rollback of illegal overcharges. If there had been no rent control, we would've had no tenants' day in court.

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With rent control and rent registry, of course, the picture was turned around and we didn't have to pay that 28% per month increase. With the rent control and rent registry most of the 163 apartments had their rents rolled back to the legal amounts.

With rent control, we tenants had our day in court, even though we had to represent ourselves against the landlord's representative and their two Mutual Life lawyers. However, we were able to be right here in Kitchener, which helped somewhat, so that some of the tenants who weren't working or weren't too ill to come were able to be there and hear the process and make their statements. This was one hardship that wasn't put upon them by changing the area and maybe having to have the registry in Hamilton or Toronto or London or some other place.

We did have a payback, however, of two years at 3%, which we as tenants felt was fair.

Before our day in court I prepared a petition and took it around to every one of the apartments to have signed. This petition was against the unfair actions of the owners to try to raise our rent this 28% per month.

I was shocked at how intimidated and fearful so many of the tenants were, but especially the elderly. They were afraid to sign the petition in case someone knew that they had signed and then they would be kicked out of their apartment. They didn't know where they would go. I had to try to persuade them. "Well, hey, if you don't sign" — this was the other thing that I told them — "and we lose because you have no signature and I have such a small group of people who are unafraid and are going to sign and are going to take this chance, then maybe we'll lose it. Then what are you going to do?" They didn't know how they were going to afford it because their pensions do not keep up with inflation.

An example here is myself. My rent increase of 2.9% would be \$18 a month, but my old age pension increase was only \$2 a month. Also our tenants in our building pay capital expenditures added on to their rent, so I pay \$27.85 extra, over and above my rent increase in my normal rent, and this amortization will go on for 25 years. Some of it will drop off at 10 years etc, as I guess you know.

Many elderly, single-parent families, the handicapped and the poor want to know, what do they do and where do they go? There's less and less help for us, they're telling me. Isn't our government supposed to help us? Isn't our government supposed to protect our rights? Isn't our government supposed to be for the people? Where is responsible or balanced government if it's more important

for developers and landlords to make bigger profits? Only you who make and change the laws can decide our fate. Please don't forget us. You're all we have, and maybe we are all you have.

All day you've been hearing how we as tenants, taxpayers and voters want you to know we need rent control as it now exists.

They've questioned you and you them. My life is much too hectic. I truly do not have the time or energy left to be involved in this struggle. These past two years, my husband has been in the advanced stages of both Parkinson's and Alzheimer's, and I still care for him at home. Nevertheless, I felt this fight was vital enough that I just had to come here and add my feelings and my voice to this important situation.

I'm hoping that you as a panel may realize that my experience, even with a good landlord, would've been absolutely disastrous without the rent control that existed.

Built into our rents and our yearly increases is a percentage of moneys for any honourable landlord to do repairs in his or her building as they are needed. Built into our rents and yearly increases is fair profit. What is needed is not deregulating, deluding and disappearing protection for tenants. What is needed for all apartment buildings are good tenant committees and fair landlords working together under our existing safeguards.

Whether you live in an apartment or a house, it should be home. No citizen, whether they be elderly, single parent, poor or handicapped, should have to negotiate for a space to live in our country.

I also took petitions from most of my floor captains throughout the building, and I'll leave this here for whoever would like to look at it. I didn't have all of my petitions but I've got most of them, so I have approximately 100 who have signed. I would like to leave this submission with you. Is there anything further you'd like to say? If not, thank you.

**The Chair:** You've left about three minutes per caucus for questions, beginning with the government.

**Mr Danford:** Thank you for your presentation and for showing us examples of how your improvements affected you as individuals and so on. It certainly was an extensive program, I see.

**Mrs Piller:** It was ridiculous.

**Mr Danford:** It was a complete program, certainly from the list here. Given the fact that was in place at that point in time and you had to go through the procedure to have it repealed and all that sort of stuff and work within the procedure that was in place, how would you suggest that it should be, having gone through that? What would your suggestions be?

**Mrs Piller:** First off, I think that any landlord who tries to ramrod in that much work in that short a time and put tenants in this kind of ridiculous position should've not even gotten anything back. I, for one, thought that 2% or 3% was fair. What I didn't think was fair was the amortizing of the roofing and all the rest of this pile of stuff for 25 years, whereby some drops off at 10, some 15, some at 20 and some 25, and you're saddled with this blasted thing forever and ever.

I remember reading in this paper that perhaps they were thinking of maybe including this type of thing in the rent and it would stay in it forever. I'd move right out of



Ontario, I'll tell you that right now, if they did that kind of stuff because that's totally unfair. The real unfair thing was that the landlord even got away with any of this kind of stuff, tried to run it through under this policy and do this to us as tenants.

**Mr Danford:** As you are aware, there's consideration that there should be a discussion about it first before anything happens and that the tenants should be part of that.

**Mrs Piller:** There was no discussion.

**Mr Danford:** No, no, but I say under the proposal that's here. You reviewed that. How do you look at that? Is that reasonable?

**Mrs Piller:** Because the landlord gets a certain amount of money for doing his repairs, he should have to do his repairs with that money. He shouldn't be allowed to try to do a gigantic amount of things at once and then up the rent. There's got to be fair play here.

**Mr Sergio:** Thank you for your presentation. Do you know if there is a vacancy or what the vacancy is in your area?

**Mrs Piller:** There are some vacancies in our building, yes. As a matter of fact, attached in here was a little card that they stuck on everybody's door offering a \$50 reward to — well, it said "residents." I don't know if they meant residents per se as we know residents in our building actually, but there was a \$50 reward if you got someone to sign, to have a year's lease, and that person also would get \$50. I presume there are some vacancies.

**Mr Sergio:** That's good. Would you know if there is a waiting list?

**Mrs Piller:** A waiting list? I have no idea. At least, I haven't discussed that with them.

**Mr Sergio:** As you know, the government last year changed the rules. If you need assisted housing or one of the Ontario Housing units, you have to put your name down and then wait your turn. Given your case and that of many people on social services or seniors, whatever, in your own particular case, if you were faced with the possibility of moving from where you are —

**Mrs Piller:** I may be faced with that when my husband goes into the nursing home, so that's not too far off to think about.

**Mr Sergio:** If the controls were lifted — let's hope that the government's going to have second thoughts about that, but let's say rent control is gone and you've got to move. With your husband the way he is and stuff like that, not knowing where you have to go or what kind of rent you will have to face, what would be the hardship on people like you?

**Mrs Piller:** First off, I think one of the things is that if you try to go to any agency and say, "I can't afford to pay my rent," they'll say, "Find a cheaper apartment." How cheap an apartment can you find, and where can you find it? If you own a car, you can't possibly run the car and own an apartment too, if you have my particular circumstance.

**Mr Sergio:** Are you saying that —

**Mrs Piller:** I'm saying I'll just have to live in my car.

**Mr Sergio:** — the government should retain some control to protect people, such as your group, let's say?

**Mrs Piller:** I truly can't see where the government paper that they put out was interested in trying to help anybody in my particular situation.

**Mr Marchese:** A few quick things. First, I congratulate you for your ongoing activism and not giving up, as a way of protecting your own rights. Secondly, I sympathize with the problem you have with your husband's Alzheimer's disease. My father died of Alzheimer's disease. My mother took care of him for six years. It's a long, long battle for those of us who took care of him for six years.

**Mrs Piller:** I know.

**Mr Marchese:** The third point you made has to do with this government's intention, and it's in the paper, to remove what are called "costs no longer borne," which is what you were getting at. Under the present legislation, once the capital repair has been paid for through a rent increase, the rent is supposed to be decreased by the amount that has been allowed to pay for the expenditure. Once you remove that cost no longer borne, it would go into your rent forever. So you're absolutely correct. We don't agree with it. It's good that you told them that.

The other question I want to ask you quickly: Actually there are two questions. I'm afraid I might run out of time, so I'll ask you this. Mr Spencer is here and he debuted earlier, and he said this is in his paper: "Why can't I deal directly with my customers?"

**Mrs Piller:** Because they're usually not fair.

**Mr Marchese:** "Why can't I come to an agreement with my customers about what services I should provide and at what price? Does the government truly believe that my customer, and the customers of all rental property owners in Ontario, are so incompetent and powerless that they cannot look out for their own interests? Why does the government have such contempt for tenants?"

Do you agree with that statement? Were you, with your landlord, able to sort of negotiate, talk, air these things out? You have a whole page of why it didn't work out.

**Mrs Piller:** No. We had to take him to court. We had to go to court. But after the thing, that's when I put the tenant committee through and then we were going to work together. Of course, I don't know what they'll think about what I just did tonight, but I'll be telling them about it on Monday.

*Interjection.*

**Mrs Piller:** Yes, I might be sleeping in my car.

**Mr Marchese:** They argue rent control is the problem and that the system is broken as a result of that. They need to fix it. Part of what they're saying is the system is tilted towards the tenant at the moment; we need to change that. Do you agree that the system is tilted towards you at the present moment?

**Mrs Piller:** I don't see how it's tilted towards me when your landlord can have you paying for trying to change his building over from a tenants' apartment to a resident care building. I don't see how that's slanting anything towards the tenant.

**The Chair:** Thank you, Mrs Piller. We appreciate your input here this afternoon.

That concludes our hearings. Thank you to the people of Kitchener-Waterloo for your input and thank you to the members of the committee. The meeting is adjourned until 10 o'clock Monday morning in Toronto.

*The committee adjourned at 1933.*







## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
Mr Ernie Hardeman (Oxford PC)  
\*Mr Rosario Marchese (Fort York ND)  
\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
\*Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
\*Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Toby Barrett (Norfolk PC) for Mr Flaherty  
Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello  
Mr Bert Johnson (Perth PC) for Mr Hardeman  
Mr John L. Parker (York East / -Est PC) for Mr Young  
Mr Joseph Spina (Brampton North / Nord PC) for Mr Tascona

### **Also taking part / Autres participants et participantes:**

Mr Wayne Wettlaufer (Kitchener PC)  
Mr Terry Irwin, senior policy adviser, Ministry of Municipal Affairs and Housing

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Mr Jerry Richmond, research officer, Legislative Research Service



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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 9 September 1996

# Journal des débats (Hansard)

Lundi 9 septembre 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 9 September 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 9 septembre 1996

*The committee met at 1007 in room 228.*

## RENT CONTROL

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to Monday morning at the standing committee on general government. We are gathered this morning to discuss preparation of our report to the minister. For most of us, this is a fairly new process, so we're playing it a little bit by ear. What we've decided to do is to allow the researchers to give us some input about what they have gleaned over the three weeks and give us some choices about different approaches we can take as far as a report goes. Then we will have a discussion about what we feel is best as a committee.

Jerry and Elaine, I think I'll turn it over to you to get us started. I think probably you would prefer that we listen to your presentation and then ask questions at the end? I won't put any specific time limit on you.

**Ms Elaine Campbell:** Thank you. We appreciate that.

**Mr Jerry Richmond:** We're the final witnesses.

**Ms Campbell:** As the Chair has indicated, Jerry and I are going to be making a joint presentation this morning. I'll begin by walking you through this summary that was distributed last week in London. It has the number F 358.3 on it. I'm hoping there will be some copies of it available in the immediate future if you don't have a copy of it with you right now. The next summary will be available for the end of the week. I apologize for any delay in getting a further copy out to you; our computer system's memories became a little oversaturated with information last week and we had to deal with the problem by splitting it into three parts. It gave us the opportunity to spend some time thinking about possible reorganization of the summary, and I'll be speaking to that reorganization during my presentation. The final summary will contain the reorganized and some additional material.

What I'm going to be doing this morning is taking you through the introduction and each of the themes and bringing to your attention those items that generated the greatest number of responses. You should note that some of the proposals put forward in the tenant protection package received nothing in the way of a response. You may wish to remember some of the points that I'll be raising during my walk through when you have your discussion with Jerry about the proposed outline for the paper.

I'd like to make some general comments before starting. The open-ended nature of the proposals contained in the tenant protection package resulted in a wide range of comments that went from the very focused —

for example, "We agree," or, "We do not agree because..." — to those that used the proposals as a segue into a related issue. Not surprisingly, some of the proposal responses contained comments that could also be assigned to the questions asked in the little boxes that appeared at the end of each theme, "Other Issues for Discussion." Many more seemed to be content with responding in a general way rather than specifically. We attempted to assign the comments as appropriately as we could. Our reorganization will result in some of the comments that appear under specific themes in the major portion of this summary being moved to the miscellaneous section.

The introduction is found on page 1 of the summary document, and there is reference in there to the italicized text that appears throughout the summary document. The final summary will include all of the headings and explanatory notes for the proposals and questions put forward in the tenant protection package. As I've already told you, some of them didn't generate a response, so they don't appear in the summary documents you've received so far.

The first theme in the tenant protection package is "Goals for a New Tenant Protection System." You'll notice that it hasn't appeared in any of the summaries you have received up to this point in time. The final summary will contain reference to the fact that the submissions commented on this theme but in the context of other themes; hence the lack of any comments.

The first theme that generated comments was entitled "Protection from Unfair Rent Increases." This section, of course, deals with the future of rent control. I don't think there were any proposals or questions asked under "Other Issues for Discussion" that didn't generate at least one response. The new base rent issue, or vacancy decontrol, as some referred to it, probably generated the greatest number of responses. We're trying to look at ways to compact those so that we can have them more narrowly focused in terms of responses. The prospect of what was referred to as vacancy decontrol had tenants and their supporters concerned about issues such as the future of affordable housing and tenant mobility. Landlords and their supporters often felt that decontrol wasn't enough to allow rents to go to market levels.

Negotiating rents was an issue that was raised by both sides. This section will be reorganized and, as I've said earlier, some of the comments may end up in the miscellaneous section. Others to bring to your attention, and that Jerry might be discussing, include the elimination of the rent registry and the freezing of maximum rents. These were actually discussed in the same proposal. Rent reduction abatement and capital expenditure cap were two



proposals that also generated a large number of responses.

The next theme is "Maintenance." That begins on page 21 of the latest summary.

**Mr Rosario Marchese (Fort York):** Excuse me for a second. Is Ms Campbell reading from a paper that we can follow, or is it not the case?

**The Chair:** I'm sure you're referring to the summary that was distributed last week.

**Ms Campbell:** There are additional copies being made right now.

**The Chair:** Has everyone got a copy of the summary that was distributed last week?

**Mr Mario Sergio (Yorkview):** I've got it, but I haven't got it here.

**The Chair:** I'm sure that's what you're referring to, isn't it?

**Ms Campbell:** Yes.

**Clerk of the Committee (Ms Tonia Grannum):** I'm getting copies, but it's going to take a long time because it's a long document. It was handed out last week.

**Ms Campbell:** I'll get back to the maintenance theme. It was closely tied to the previous theme dealing with the issue of rent control. There were matters of concern to all types of witnesses under this particular theme. Empowering property standards officers, orders prohibiting rent increases and owner notification were probably among the most popular. There seemed to be a lot of concerns about the future role of municipalities that could be applied to more than one proposal, and the same situation existed with the issue of owner notification.

**Mr Alvin Curling (Scarborough North):** May I just ask for some guidance here, because I know research is going through these in detail. I just wondered if we could have a moment to get this summary of comments that they had submitted to us now. I may have some in my office. It would be very helpful in responding, how we direct the staff to write the report. I just don't have it with me here, that report. I think it's in my office. It would be very helpful if we have a small adjournment, five minutes or so, just to get this.

**The Chair:** How many people don't have a copy of the summary?

**Mr Harry Danford (Hastings-Peterborough):** I have it, but it's not with me.

**Mr Curling:** Same thing with me.

**Mr Sergio:** We all got it, but we didn't bring it.

**Mr Marchese:** He's asking for a brief recess for him to go pick up his and for other members to pick up theirs.

**The Chair:** How far do you have to go to get it?

**Mr Danford:** I'm sure I left mine in my apartment, which isn't very far.

**The Chair:** We are getting them copied. Do you see any benefit, Elaine, in going on without the members having it or do you think we should stop and wait until we get copies?

**Ms Campbell:** I could go through it and if they feel there's a need for any greater discussion or any questions about the summary in particular, perhaps we could answer them when the additional copies are here. People could make notes.

**Mr Curling:** Why I think it is helpful is that as she goes through that it refreshes my memory and I could make notes of what I also did hear and also about notes they did make.

**Mr Sergio:** Are we getting copies?

**Clerk of the Committee:** It's being copied; probably about 10 minutes or so.

**Mr Curling:** Okay, we can proceed.

**The Chair:** Is everybody comfortable to proceed? Yes, I guess if they just talk slowly.

**Ms Campbell:** I'll try to do that. Perhaps I'll go back to "Maintenance," which appears on page 21 of the summary document. As I said, it was closely tied to the previous theme, "Protection from Unfair Rent Increases." There were matters of concern to all types of witnesses under this particular theme heading. Those that probably generated the greatest amount of comment dealt with empowering property standards officers, orders prohibiting rent increases and the issue of owner notification.

The concerns that witnesses had about the role of municipalities in terms of enforcing property standards and those dealing with the issue of owner notification could very reasonably apply to more than one proposal, as presented in the tenant protection package.

The next theme was "The Landlord and Tenant Act." As you'll see when you get a copy of the summary, there were a great number of general comments, and some of these might be more appropriately assigned to a miscellaneous section in the final summary.

In terms of specific proposals, the issues that probably generated the greatest amount of comment dealt with notice periods and tenancy terminations, sublets and assignments of lease, and interest on last month's rent. But in terms of actual numbers of witnesses who responded to a particular proposal, those falling under the heading "Harassment" probably generated the greatest number of witness comments. The harassment section included the proposed creation of an enforcement unit, maximum fines for harassment and I think — I'm just refreshing my memory here — other possible recourse in terms of penalties.

The "Dispute Resolution System," which begins on page 44, was probably the theme that was the most difficult to deal with, and this was probably due to two factors: first, that the ministry hasn't yet developed a proposal for the new system and, second, the technical or specialized nature of the issues being discussed. The tenant protection package does, however, state that the government's wish is to create a system that is independent of the courts. This alone generated a tremendous response.

There was also a great deal of overlap under this theme and a number of general responses to each of the proposals. Witnesses seemed to hesitate when it came to specifics, except in the case of order-in-council appointments. Here these types of appointments seem to be favoured over public tender and competition. The questions that were asked under the heading "Other Issues for Discussion" were probably covered more often in the responses to the proposals. There seemed to be a rather jagged flow from one to the other and people seemed to



throw all their responses under the proposal as opposed to the specific questions that were asked.

The theme "Security of Tenure and Conversions" starts on page 64, and it deals with the future of the Rental Housing Protection Act. Many witnesses had general comments to make supporting repeal of the legislation or keeping it as it is. With respect to proposals, the one dealing with municipal approval for demolitions, major renovations and conversions generated the greatest number of pro, con and qualified responses. Issues for discussion such as options for extended tenure, tenant approval and alternatives to extended tenure were also concerns.

Moving on to "Care Homes," which begins on page 72, because of the narrow focus of this particular theme fewer individuals and groups responded to the number of proposals that were presented there. Those who did had a great deal to say about such things as written tenancy agreements, information packages, notice of termination, and each of the headings under the proposed rights of operators. These included consent with respect to bed checks, transferring to alternative facilities, fast-track evictions and the right to convert.

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"Mobile Home Parks and Land-Lease Communities" appear on page 83. At this point in time, the greatest number of comments seem to be concentrated in the areas of rent control, cost pass-through allowance, abandoned homes and security of tenure. This may change as we input more of the responses from the witnesses from this particular interest group. Many of the people who spoke with respect to issues related to mobile home parks and land-lease communities did not have briefs so we've had to wait for the Hansard to be generated to input some of their responses.

The last section of the summary is entitled "Miscellaneous Witness Recommendations." It is often the case with the summary documents we've prepared that the miscellaneous sections take on lives of their own. This particular summary was no exception. The summary that you will be receiving by the end of the week will not be organized in the same manner as its predecessors. We decided we would move things around so that the headings in this particular section would correspond to the themes that were presented in the major part of the document. There will be some exceptions, though. We will retain sections dealing with general comments supporting and opposing the tenant protection package as well as other comments of a more general nature but still related to the tenant protection package, and an ever-popular "Other" section at the end.

With respect to the subheadings, the "Other Comments" section will include subheadings dealing with hearings and consultations on the tenant protection package and proposals that will not motivate new rental housing.

The section dealing with the Rent Control Act has subheadings dealing with issues related to the phasing out of rent control, the impact of rent control, chronically depressed rents and capital reserve funds. With respect to capital reserve funds, there may be some comments appearing in the capital expenditure cap proposal under

the theme "Protection from Unfair Rent Increases." There will be some included in that section, but they have made specific reference to the cap. Those that dealt with the reserve fund in a more general way will be included in the "Miscellaneous" section.

A heading under the theme of "Maintenance" will be "Building Inspections and Standards."

The Landlord and Tenant Act generated by far the greatest number of miscellaneous comments, and in this section we'll be making specific reference to amendments to the legislation: such issues as forms, information and education, deposits, payment of rent.

There will be a section on dispute resolution, security of tenure and conversions, care homes and then the mobile home parks/land-lease communities. There seemed to be a lot of general comments on what witnesses perceived as the need for separate legislation due to what they consider to be the uniqueness of their particular situation, the fact that they owned their own dwelling but rented the land on which it stood and paid fees for maintenance.

Our "Other" section will deal with such issues as assessment/taxation of rental housing, housing policy and programs, shelter allowances and a guaranteed income supplement. Some of these issues Jerry will be questioning you about in his discussion of the proposed outline for the paper.

If you don't have any questions, perhaps the best thing to do at this point would be to turn it over to Jerry and he could pick up on some of the points I raised.

**The Chair:** The document you're going to go through, Jerry, is this one? Everyone has a copy of it?

**Mr Richmond:** Yes, I handed it out, Mr Chairman. It's entitled Briefing Notes for Draft Tenant Protection Package Report. We've used the acronym TPP. It's not STP or anything like that; it's tenant protection package.

Thank you very much. It's a great honour to be the last witnesses. I just did a quick tally. This is my fifth set of rent control hearings; I won't say over how many years. The hearings, though, did involve all three parties.

**Mr Marchese:** A lot of history there.

**Mr Richmond:** In the briefing notes, what I tried to do is to encapsulate some of the major issues. I'll be walking you through them to give the committee some guidance towards a report, and I'll be making some remarks a bit later. I think Elaine and I were relying upon our experience with many committees in the past that reviewed a whole variety of issues. Those committees tabled reports in the Legislature, and I can think of some of the issues. They ranged from Ontario Hydro to a housing one where we did a review in 1980 with the justice committee of the Ontario Housing Corp. Workers' compensation — there's a whole gamut.

Let me just walk you through these briefing notes. I would suggest, just as a few key background documents — I know we've been buried in paper. I presume you should be able to dig out the tenant protection document. I have one extra copy, but that's the key. Another document, if questions should come up about the history of rent control in Ontario, I think before the hearings began we distributed a current issue paper that actually reviewed rent control all across the country. We



get royalties on this, so I'm just flogging our — but it is a useful summary, because we have been deluged with paper. So I'll just draw those key documents. I use them myself. I don't have a vested interest here.

Let me just walk you through the discussion notes. I'll read them, highlight them. If you have questions, I'm certainly willing to deal with them as we go, but it's probably better to deal with them at the end when you've heard the entire package.

The briefing notes reflect the major themes of the TPP and the public input we've received over the last three weeks of public hearings across the province. These, as Elaine went through for you, are documented in the summary. As she indicated, an updated summary will be prepared that reflects all the submissions and presentations.

The TPP matters in these briefing notes have been ordered and grouped according to major themes and also to reflect the degree of interest that was raised during the public hearings. Just to give you some sense of what we've done here, I've tried to group these things under five major headings. I think these will become evident, but let me just share those with you.

When we get into this document, I've grouped all the concerns, or the major ones, under the rent control system itself. So that's the first one. That's the key.

The next major section — I can refer you to the pages, but I'm going to be running through these; maybe it's just best to listen, but it happens to be on page 4 — is "Security of Tenure and Conversions," and that of course relates to the proposal to repeal the Rental Housing Protection Act.

The next major section appears at the top of page 6. In this section I really grouped all the legal, administrative and enforcement matters, so the Landlord and Tenant Act and all the various dispute, maintenance and harassment types of things where you're enforcing landlord-tenant matters have all been grouped.

The next major section, on page 8, deals with the two special types of housing: care homes and mobile home parks/land-lease communities. So those are grouped.

Finally, on page 10, you've got a selection of miscellaneous matters.

So you've really got five major sections. I felt this had to be done because there's such a multitude of points in the TPP document that even for myself I had to group them to try to make sense of them. That's the method behind my madness, that there are five major sections there: rent control, security of tenure, legal and administrative, special housing and then miscellaneous.

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I'm just back on page 1 again, walking you through the intro there. The committee's report presumably will provide the government direction in its intention of drafting a tenant protection act.

The final point: Within the report, the introduction from the summary that Elaine made reference to would probably be included if in fact the committee does decide to do a report. We would probably also include, as is in the summary, italicized excerpts from the TPP itself so the reader could glean instantly what the discussion document itself proposed.

Moving over the page on to the rent control section, I've highlighted some of the major issues. I haven't picked on every issue. We know in the document itself there's a multitude of issues. After I walk through this, if the committee should choose to address other matters, that's certainly your prerogative. I just felt there was some need to hit on some of the major issues.

The first point there is the above-guideline rent increase and the proposals for an increased capital expenditure cap. In each section there's a little discussion paragraph, and you see this throughout. What I've tried to do there, for better or worse, is to encapsulate the landlord and tenant perspectives on each of the matters.

The proposed 4% capital expenditure cap generated considerable discussion. Landlord and property owner representatives felt this cap was inadequate. They also asked that the carryforward provision, rather than being set at two years as proposed, should be unlimited. Tenant groups, on the other hand, expressed disapproval of this proposal and suggested that capital reserve funds should be established by landlords from the current rent stream.

You'll see there's a bit of a discussion and then there's a question or questions for the committee to consider. The reason they are in here is to guide or direct some of the committee's discussion. If you should choose to formulate recommendations, they may well flow from the questions, but that's certainly your prerogative. So the question here is, "Does the committee wish to develop a position on this matter?" ie, the capital expenditure cap.

There's a little paragraph there just mentioning some of the other issues related to rent control operation. During the hearings, other matters were raised which are not a feature of the current rent control statute. They may well have been features of previous pieces of legislation, but I won't go into the nitty-gritty of that.

Some of the issues include a capital reserve fund. That has been proposed. I believe there's a provision for condominiums to have a capital reserve fund, so that would be stipulated under the Condominium Act. It's my understanding that's where that notion comes from. It was considered, I know, in the past under Bill 51, which was the Residential Rent Regulation Act of 1986, but it never got in that in the final form.

Other points that were raised were remedies for chronically depressed rents. These are generally regarded to be older, smaller apartment units where the landlords feel that, because of the imposition of rent control and the imposition of guidelines over the years, their rents have fallen below market levels. So that's what the meaning and rationale for that term is. The issue has arisen for the older buildings that there should be, under rent control, some special provision for them to catch up. That's what that notion means.

Then you have the concept of equalization of rents. That did exist under previous incarnations of rent control. What it allowed landlords to do is, if you had a building say with 200 units, you could get permission for extra increases to bring all the rents up to the same level. You may well have had two-bedroom units that rented at different levels, so there were provisions under some of the previous legislation — there is none under the cur-



rent — to equalize those rents and bring them up to the same level. That's what that means.

Those are some of the other issues. The question there is, "Does the committee wish to address any of these matters?"

There are certainly other issues. Elaine mentioned some of them. There's costs no longer borne. There's the proposal in TPP to permanently exempt new construction, and that's a change from the current statute, which gives new buildings a five-year leeway.

Under vacancy decontrol and new base rent, as Elaine indicated, this was probably one of the matters that raised the greatest degree of concern and debate during our three weeks of hearings. Extensive tenant concern was expressed regarding this provision. Some tenants claim that this measure would encourage landlords to force or even harass, in their view, tenants to move in an effort to increase rents to market levels. Concern was also expressed that this measure would adversely affect vulnerable tenants. We heard some of those people personally: single mothers, people on low or fixed incomes, psychiatric patients, persons with disabilities or illnesses.

Pressure would also be placed on tenants to remain in their units. This paragraph, of course, reflects the tenant perspective on this vacancy decontrol provision. This measure would deplete affordable rental housing units as vacancies occurred, and in the extreme, might contribute to homelessness.

To alleviate these concerns — and some witnesses suggested this — a cap on increase at the time of vacancy was suggested. A related issue from the tenant perspective was the option to negotiate a new rent. Many tenants believe they are at a disadvantage to negotiate with a landlord, especially when vacancy rates are low.

Landlord interests on this vacancy decontrol proposal expressed support for this provision, but some landlords were disappointed that upon the establishment of the new rent, the unit would once again be subject to rent control guideline increases, and they advocated a complete removal or in some cases a phasing out of rent control entirely. Concern was also expressed regarding the uncertainty of future governments re-establishing rent control. From the landlord community, they maintain that these actions might discourage long-term investment in rental housing. It was also maintained that in many communities, depressed rental market conditions and adequate or higher vacancy rates would act to ameliorate any rent increases if the vacancy decontrol provision were to be put in place.

Questions for committee consideration: First, "Does the committee support the implementation of vacancy decontrol whereby rents could rise to market levels on a change in tenancy?" The second question encapsulates some of the proposals: "Should some cap be considered on permitted rent increases at the time of vacancy change?" Some possibilities that were suggested: some multiple of the guideline up to a specified percentage; the matter of a limit on double-digit rent increases at the time of vacancy, or should the cap be related to local rental market housing conditions, eg, vacancy rates?

We did hear some evidence that in the tighter markets, probably in the GTA and Ottawa, the rental market is quite tight, but we heard landlords and even some tenants admit that in some other smaller urban centres, the rental market is somewhat depressed, rents are low and vacancy rates are higher. Ontario has always had province-wide rent control, but it raises the issue — and this could be applied throughout — should the legislative package reflect local housing market diversity? That's an issue that could be applied to virtually any of these proposals.

An issue related to vacancy decontrol was the treatment of sublets and lease assignments. That's the reason why I put it in here. In the package, it appears under a provision of the Landlord and Tenant Act. I think the major concern arose as to how sublets will be treated, whether they'll be grounds for vacancy decontrol. That's why it's here.

A matter associated with vacancy decontrol was that a sublet or assignment of a lease by a tenant would trigger vacancy decontrol and result in an increase of rent to market levels. Landlord and development industry interests advocated that a sublet should be treated as a new tenancy, with a right to adjust the rent to market levels. Legal clinic and tenant advocate groups put forward the position that sublets should not be grounds for vacancy decontrol of rents. Post-secondary students, several of whom appeared before the committee, or their representatives, who live away from home expressed particular concern regarding this matter.

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Some of the questions for the committee's consideration: "Should the landlord have the right under the L&T act to approve sublets or assignments?" "Should subletting or assignment of the lease be grounds for vacancy decontrol?" One option that comes to mind: "Might a specified short-term absence of the original tenant be grounds for continuation of the current rent level, except for regular guideline increases, if any?"

Over the page deals with the issues associated with the proposal to eliminate the rent registry, which was brought into effect under the Residential Rent Regulation Act of 1986 and was carried forward into the current Rent Control Act. Previous versions of rent control pre-1986, and it took a few years to get the rent registry up and running, did not have a rent registry feature.

Some landlord real estate umbrella groups support this measure, ie, the proposal to eliminate the rent registry, since in their view it would reduce the administrative burden on landlords, since they have to file appropriate information with the registry. The Rent Control Act and the regulations have forms that landlords have to submit so that the rent registry can be maintained.

However, many landlords, especially in communities which are experiencing depressed rental market conditions, support the retention of the current principle of legal maximum rent which can be computed by accessing the rent registry. This feature of the current rent control system — and it's been a feature of previous legal regimes under rent control too — would legally entitle landlords to charge this legal maximum rent, and what it does, it reflects the application of the successive guideline increases to the base rent when local housing market



conditions improve. Landlords do not have to charge this higher rent, and in depressed markets, as we heard, may be charging significantly lower rents, but they would be, under the current rent control legislation, legally permitted to charge the legal maximum rent when conditions improve. That's what this concept is all about. What it really means, if you went back and had a base rent, had a rental unit on the market in 1975, let's say, you'd apply all the guideline increases from 1976 on, when rent control came in up to the present, and you'd get the legal maximum rent. That's really what it means.

The vacancy decontrol proposal would also — and this is in the TPP — supersede the legal maximum rent provision, and that's really the reason why the landlord community has concern about this. Some landlord groups propose that with vacancy decontrol, the new rents should be the higher of the rent paid by the new tenant or the legal maximum rent.

From the tenant perspective, many tenant groups and advocates supported the maintenance of the rent registry as a means of establishing legal maximum rent.

Some of the questions for the committee's consideration: "If the revised rent control system is put in place, particularly the vacancy decontrol provision, should the rent registry be retained/abolished?" "Should the concept of 'legal maximum rent' be retained in a revised rent control system?"

Moving on to security of tenure and conversions, this relates to the proposal to repeal the Rental Housing Protection Act that was brought in in 1986, and the TPP raises issues about different means of protecting tenants, first rights of refusal and the like. I've spoken below to those matters.

From the landlord perspective, this measure is seen as an opportunity to refurbish, convert or replace Ontario's aging rental stock, thereby promoting development activity and employment. Major landlord real estate umbrella groups also recognize that extended notice, tenure, first right of refusal to purchase or some form of possibly financial compensation for moving expenses or other hardships to existing tenants might be appropriate.

Many tenant municipal and legal clinic witnesses strongly objected to this proposal. This measure, in their view, was seen as weakening security of tenure and aggravating tenant affordability, especially when combined with vacancy decontrol, and also potentially eroding the local supply of affordable rental housing.

These proposed legislative amendments would also affect residents of care homes and mobile home parks, land-lease communities. So I brought them into the picture here with respect to this.

Some of the questions for committee consideration: First, "Is the repeal of the Rental Housing Protection Act supported?"

The next question, and this was proposed by some witnesses: "Should the municipal right to regulate conversions and demolitions of rental housing be totally removed, or might larger urban/regional municipalities have the option or permissive authority with council approval of regulating conversions as related to local housing market/vacancy rate conditions or other factors? Should this be a municipal option with provincial guide-

lines?" That just poses some of the potential options there.

The next question: "Should existing tenants have the right of first refusal for conversions? Should existing tenants be offered preferential purchase prices or other financial inducements or terms?"

The next question: "Should existing tenants have the right of extended tenure on conversion/demolition? If so, how long, or should financial compensation be considered?" These reiterate some of the points in the TPP document and input, of course, from witnesses that Elaine spoke to.

"Should existing tenants be financially compensated for conversion/demolition? How much? Several months' rent, reasonable moving expenses, assisted to find alternative accommodation?"

The next question: "Should majority tenant approval be required for conversions from rental to condominium?"

Next question: "How should such protections be administered? By the Ministry of Municipal Affairs and Housing, by local municipal planning authorities or by the local real estate industry?" This is a possibility. "Should the proposed harassment unit play a role in monitoring/administering security of tenure provisions granted to sitting tenants?"

Next question: "Should the same or different principles or policies be applied to compensate sitting tenants in the case of care homes, mobile home park and land-lease communities? Should these types of housing have longer or extended tenure provisions? In the case of care homes, should the landlord have a stronger obligation to assist the sitting tenant to find alternative accommodation in the event of a proposed conversion/ demolition?"

The next section deals with the legal, administrative and enforcement matters. Elaine mentioned that these issues are difficult to come to terms with and that the range of comments ranged from the general to the very specific. I've tended to take the more general approach and pose to the committee some general issues. I'm not a lawyer nor am I an expert, I must admit, in landlord and tenant law.

First, the Landlord and Tenant Act and the proposed dispute resolution system, just reflecting some of the input: Many legal clinic and private legal practitioners who came before us put forward specific concerns and proposals relating to these legal and procedural matters. Technical proposals were put forward by many witnesses on these matters for improving the existing or proposed dispute resolution system. When I mention existing, most of the witnesses were speaking to the existing procedures and process under the Landlord and Tenant Act. In some cases, flow charts were put forward relating to proposals for the new dispute resolution system. Some witnesses appeared to favour the existing L&T act process, while others favoured a new dispute resolution process. At present rent control is primarily under the Rent Control Act, an administrative process, while landlord and tenant disputes revolve around a form of contract law under the L&T act, which is mainly dealt with through the courts.

Concern was also expressed that any new process should be accessible and adequately funded. The committee — this is an observation — recognizes that many of



these matters are technical and complex and at the same time merit further analysis by the Ministry of Municipal Affairs and Housing. You may or may not wish to concur with that observation.

Some of the questions: "Does the committee wish to give the Ministry of Housing" — I should have had "Municipal Affairs and Housing" in view of their current name; they change frequently; that ministry has been both split and combined over the years — "some strategic directions for reform of the landlord-tenant dispute resolution system?" Some of the things that were proposed: "Streamlining, economy, independence, efficiency, accessibility, right of appeal and fairness, or others?" These were some of the themes that were spoken to by the witnesses.

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Next question: "Should the dispute resolution process be a prelude to or a total replacement of the Landlord and Tenant Act process?" Some of the witnesses, of course, spoke to this.

Next question: "Should there be a dual process for landlord-tenant matters, eg, dispute resolution plus the courts? Or alternatively, should the dispute resolution system under the L&T act be maintained but streamlined?" These were addressed in the various deputations.

Next question: "Should landlord-tenant and rent control disputes be handled by the same adjudicative body?" This would raise the question whether the two processes should be totally combined.

Next question: "Should the ministry embark upon further scoped consultations with both landlord and tenant legal practitioners to further refine these proposals?" This reflects the fact that some of the witnesses made quite detailed submissions to us, and quite technical.

Next question: "Should the ministry be directed to review the technical matters put forward by witnesses with a view to assessing their merits for incorporation within a refined proposal?" As Elaine mentioned, the summary highlights these various matters.

Next question: "Should the landlord-tenant legal and dispute resolution process be funded from general revenues, or be operated on more of a cost-recovery basis?" This speaks to the issue of funding.

The final question just puts to you, "Are there any other specific matters or concerns" under this whole dispute resolution matter "that the committee seeks to address?" As I indicated, I kept this analysis general. I did not speak to some of the technical things that are in the TPP — how much should the last month's rent deposit be and a variety of other very technical matters. I did not speak to those. You may choose to concur or otherwise.

Next matter is maintenance. Improper and inadequate maintenance is a long-standing concern of tenants who are paying their rent; however, there have always been some cases of landlords who are negligent in this regard. I think we heard cases of that during our deliberations. Property owners, on the other hand, were concerned that they receive proper notice of violations due to maintenance, and concern was expressed by tenant representatives that new maintenance measures should be adequately funded.

Some questions: "Should dedicated provincial funding assistance be provided to municipalities for maintenance enforcement measures?" The next question — and this was one of the proposals: "Should maintenance violations be added to property taxes?"

The next section, harassment: From the landlord perspective, there were concerns — and this relates to the proposal for a new harassment unit in the TPP — that harassment needs to be better defined and that the proposed harassment unit should investigate both landlord and tenant complaints of harassment. It was also recommended that there should be penalties for false accusations of harassment, I guess on either side.

From the tenant perspective, the assertion was made that the vacancy decontrol provision in particular would encourage landlord harassment of tenants to force them to move. It was also claimed that in many cases harassment may be difficult to prove and that this proposal may therefore prove to be ineffective. Concern was also raised as to whether the harassment unit would be adequately funded by government during the current climate of restraint. If there are increased fines as proposed, it was claimed that they are only effective if enforced. Specific questions were also raised with respect to harassment of care home tenants.

Some questions: "Does the committee support the establishment of a separate harassment unit? Should there be a central office and regional harassment units across Ontario" as there is now under the rent control administrative provisions? "Or alternatively, should harassment enforcement be assumed within the purview of the Landlord and Tenant Act?"

"Should special harassment measures or efforts be considered for residents of care homes who may be disabled or handicapped?"

"Should other measures such as injunctions and restraining orders be used to deal with harassment complaints?"

The next section speaks to the two special types of housing within the TPP: care homes and mobile home parks and land-lease communities.

One thing: I was chatting with the Chair just before we began our deliberations, not to lengthen this, but after my discussion with Mr Carroll just earlier I did look up in the legislation the legislative definitions of care homes, mobile home parks and land-lease communities. I won't read them into the record now, but if you feel it pertinent, I can certainly do so later. Is that fine?

**The Chair:** Yes, I don't think we need those.

**Mr Richmond:** I have them here if they should come up.

Under the care homes, legal clinics and community advocates stated that the care home provisions of the Residents' Rights Act, which was brought in in 1994, should be preserved. This brought the care homes under the L&T act in a systematic way and under the Rent Control Act. The residential care industry advocated that rent control should be abolished from care homes while legal clinics advocated that rent control should be applied to meals and not just the accommodation component.

Under the current Rent Control Act, only the accommodation component of the fees paid by a care home



resident are subject to rent control. The food and other specialized services are not covered. So that's what this debate revolves around.

Concerns were also raised by resident and legal groups with respect to the rights of care home operators, and Elaine mentioned this earlier, to conduct bed checks and fast-track evictions. With respect to bed checks, it was advocated that this right should be subject to a formal agreement between the operator and the tenant. Concerns were also raised with respect to possible abuse of this right. There was also concern regarding transfers to alternative facilities, that this be subject to a doctor's approval and/or consent of the resident or the substitute decision-maker, as the case may be. Mention was also made that the protections of the Health Care Consent Act should apply.

Some questions here: "Should rent control coverage continue to apply to accommodation costs and not care home services or meals?" "Should special administrative protections be applied to protect resident rights in the case of bed checks or fast-track evictions?" These two concerns, as you would know, generated some concern from the witnesses and they're reflected in the summary. "To what extent should professional, resident or substitute decision-maker consent be sought or required?"

"Should the ministry further analyse these proposals with reference to the Landlord and Tenant Act and the Health Care Consent Act and revise the current proposals to protect individual interests and, at the same time, balance safety concerns in group care facilities?"

I think this last point reiterates the two interests here. You have the interests of the individual and you have the interests of the care home operator who has broader concerns about the rights and safety of other residents of the facility.

Next section: Mobile home parks and land-lease communities. Some witnesses maintained that the legislation governing these housing types should be dealt with in separate legislation. There were differences of opinion as to whether higher capital cost pass-through allowances should apply to such housing. Some tenant-resident groups maintained that such a provision would be unfair, while owner spokespersons maintained that higher capital cost pass-through, with a possible cap at 12%, should apply. Some of the issues here are higher capital cost pass-through to upgrade utilities, sewer systems, septic systems, water systems, roads and the like. The display of For Sale signs may still be an issue in some communities, although the discussion paper reaffirms the right to display For Sale signs on a bulletin board. These are For Sale signs by residents seeking to sell their individual units. The possibility for voluntary prepaid rent was also advocated where desired by residents.

Some questions here for the committee's consideration:

"Should there be a higher cap for mobile home park capital/land-lease community improvements; what should such a cap be?"

"Should the matter of whether mobile home parks/land-lease communities merit separate legislation be further reviewed?" Or possibly there could be a special section in the new tenant protection act.

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"Are there other matters the committee wishes to address?"

"Should the manufactured home industry and residents develop a code of practice to deal with sale issues and signs?" There seemed to be a lingering controversy over these issues relating to residents' rights to sell their units. That's one prospect.

The final section deals with various miscellaneous concerns. There's a whole slew of miscellaneous concerns. Elaine spoke to them in the summary. What I tried to pull out are some of those that generated broader concern and relate to housing policy and also the financial operation of rental housing.

The first one here is shelter allowances. Witnesses from both the landlord and tenant perspective raised the matter of a government position or proposals relating to shelter allowances as part of an overall housing program. As a matter of general interest, shelter allowances have been mentioned by the ministry and as a matter of interest they are also mentioned in the Common Sense Revolution doc.

From the landlord perspective, shelter allowances were portrayed as a more effective means of meeting housing affordability requirements as compared to government programs to build and manage housing, such as the non-profit program.

From the tenant perspective, questions were raised regarding the possible cost of the shelter allowance program and the view that a shelter allowance program would not increase rental housing supply and would only serve to benefit landlords. I should indicate that shelter allowances are not currently, as you would well know, within the TPP doc.

Some questions for the committee's consideration:

"Should the matter of shelter allowances be addressed in the committee report?"

"Should the government put forward policy proposals on shelter allowances?"

"Should other issues or criteria be addressed in formulating such a policy?" Some possibilities: "Adherence to property standards, length of shelter allowance contracts, selection of tenants."

Just as an aside — I believe this was mentioned during the deputations — the rent supplement program, which is a current housing program, was portrayed as a shelter allowance type of program. It's administered by the local housing authorities and what happens is, private landlords contract to provide units on the private market to rent-geared-to-income tenants and the local housing authority or the Ontario Housing Corp makes up the difference between the rent-geared-to-income rent and the market rent. So that is a current program and it was mentioned.

The next issue was the assessment and property taxation of rental housing. Both landlord and tenant witnesses identified as an issue the fact that rental residential property is assessed and therefore taxed by municipalities at a significantly higher rate than owner-occupied condominium or single-family or even duplex dwellings. This has implications for the financial operation of rental property and the rents that must be levied to recoup these taxes. Tenants were concerned that if this



tax treatment issue was resolved, the actual tax savings should be passed on to them in the form of lower rents.

Questions here:

"Does the committee wish to address this issue?"

"Should the Minister of Municipal Affairs and Housing in his responsibility" — and there's a current review under way of property tax reform related to the Assessment Act — "consider this matter?"

"Should measures be put in place to ensure that such potential tax savings be passed on to tenants in the form of lower rents?" One possibility, if the committee chooses to address this, would be to give this responsibility to the proposed harassment unit, if you wished to enforce this.

The next issue that wraps up the miscellaneous issues that I chose to address also relates to financial operation, financial burden on rental residential housing. Various landlords and municipal witnesses mentioned various provincial-federal taxation measures and approval and various inspection programs that, in their view, add to the cost of developing or operating rental residential property.

From the tenant perspective there was a similar concern that if these possible reforms should result in cost saving, such saving should be passed on to tenants in the form of lower rents.

Some questions for the committee's consideration:

"Should the Ministry of Municipal Affairs and Housing pursue initiatives to ensure that tax, approval and various inspection matters within provincial-municipal control are streamlined with respect to their rental residential property while at the same time ensuring that tax revenues are not seriously depleted and appropriate building, planning and public safety standards are maintained?"

"How can tenants be assured that such savings are fairly passed on in the form of reduced rents?" If this came to pass, "Could the harassment unit monitor such matters?"

The final little section concerns possible organizational matters concerning the report, and I mentioned this briefly to the Chairman before we began today.

The summary may be considered a synopsis of the committee's public consultations on the TPP.

There's a question: "Should the summary be available on request or filed as an appendix to the main committee report" if the committee should choose to write a report? Alternatively, and this has happened, I'm just reflecting upon my experience with previous committees — Elaine may have some remarks too — committees with a mandate to table a report in the Legislature on occasion have tabled some version of the summary as their report; other committees have chosen to develop a report with recommendations. There's really no hard and fast rule. In my view it depends on the wishes of the committee.

That wraps up what I have to say. If you should have any questions I'd be pleased to respond to them, and so would Elaine.

**The Chair:** Thank you very much for your presentation. We appreciate it. Mr Marchese.

**Mr Marchese:** Mr Chair, I appreciate what Ms Campbell and Mr Richmond have done in terms of providing that summary and raising the questions with respect to what arises from them. I have a motion that I'm going to move and see where that takes us because

I think what we need to know from the government is where it's going.

We've heard from the submissions — I brought them all here — two things: From the landlord side what we have in this proposal is just not good enough. They want more. Decontrol/recontrol simply is not sufficient. They would like to get rid of the decontrol/recontrol mechanism and simply phase out rent control. On the other side are the tenants who are saying: "The present system works. Keep rent control because it gives the protections we need."

Those were the two sides of this particular package, and in my view what's most important is this issue of decontrol and the Rental Housing Protection Act. Everything else is subject to discussion, which I don't mind getting into, but these are key for me. If we can deal with those, I wouldn't mind dealing with other matters. As far as I could tell from the submissions, we have a problem in terms of how to deal with this. Tenants are saying, "Keep rent control," and landlords are saying, "We've got to remove it."

So I've got a motion here as a way of attempting to get to it. I've asked a number of questions a couple of weeks ago to which I was hoping the government members would respond. We have done so in the past.

**The Chair:** I distributed those answers this morning, Mr Marchese, and I apologize for not getting them to you sooner. I didn't realize they were on my desk here.

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**Mr Marchese:** I see. Not having had a chance to see them, I'd like to see how the government responds to this motion.

I'm concerned about the effect that decontrol is going to have on tenants. All the deputations we've heard from students, from people with disabilities, from people with mental illness, from people advocating on behalf of those who are on low income are that they're very worried about the implications of all this. What we need, in my view, is an impact study. We need to have a sense — they need to have a sense — of the effects of decontrolling on them.

My motion reads:

"This committee recommends that the government not proceed further with the proposals in its New Directions discussion paper until it has tabled detailed studies on the impact on tenant affordability.

"The committee also recommends that such a study include material specifying the impact on tenants who are seniors, students, or disabled.

"The committee also recommends that the government table specific measures to ensure that no tenants fall into poverty as a result of the government's proposals and that these measures also be tabled before any further action is taken to implement the proposals in the government's discussion paper."

**The Chair:** Mr Marchese has introduced a motion. Did you make any copies of this?

**Mr Marchese:** Sorry, I only made that copy.

**The Chair:** Okay. I presume we should get the clerk to make copies of this so everyone has one. While she's doing that, Mr Marchese, do you want to speak to this?



**Mr Marchese:** Yes. My sense is that the government is quite intent on moving ahead with this discussion paper. At least it was my sense, from the reactions and kinds of questions the members have asked, that they are not going to move from what is put forward. I suspect that the minister will bring forth some suggestions to deal with it, but by and large decontrol, as I see it, is likely to stay with us.

Unless Mr Hardeman, who probably will speak afterwards, gives me any other indication, I will assume that this is the way it's going to be. It may be that Mr Hardeman will say, "We don't know yet; we have to submit this particular summary to the minister and then we'll see," that type of thing. But if that is the kind of answer we're going to get, I remain convinced that the minister will move ahead with this proposal.

If that's the case, it flies against everything we've heard from all the deputations across Ontario. Even in areas where we didn't expect too many people to come, they've come forward with worries about decontrolling. What does "decontrolling" mean? It means that when you move from your apartment to go to another place, you are no longer protected. It means landlords can increase rents to as much as they think they can possibly get.

We've heard from low-income people, students and people with disabilities that this will have a grave, serious economic implication on their lives, and I have no doubt that will be the case. We have an affordability problem at the moment where 35% of all tenants are paying beyond 30% of the income they make. That's an incredible sum of money they pay already in that kind of allowance. It's going to put a burden on their lives.

I am worried, as they are, and I need some assurances — they need assurances — from the government that it will have done a study that will show them they either have nothing to worry about or have a lot to worry about, in which case we hope that the government would reconsider the present proposal or anything else it might introduce that will be worse for tenants.

I'll leave it at that. I'll come back to it when others respond.

**Mr Sergio:** I appreciate the opportunity of having sat and travelled and listened to people on both sides for the last two or three weeks. It has given me a much more in-depth knowledge of the situation of rent control, what the government is proposing and what people from both sides out there have been telling us.

I hope that especially the members on the government side have really had an open mind and were listening to the various presentations we have had. I have also been very appreciative of the staff throughout the period that we've been travelling, not only for the arrangements but also for the work they have done, including up to now. I have a question of staff.

**The Chair:** Mr Sergio, we're dealing with the motion Mr Marchese has put forth.

**Mr Sergio:** I was coming to that. With respect to exactly that I would have a question, but addressing the motion itself as it is now I would like you to look at the response to a request from Mr Marchese, and you'll find it on page 2, if I can call it that. The question is, "Can

the government table any studies that show the impact on tenants of the proposed changes to rent control?" You find the minister's response, or the deputy right in here.

**The Chair:** Excuse me, Mr Sergio. Which of the three documents? Which date?

**Mr Sergio:** The question from Anne Beaumont, September 4. I think they're all dated the same. No, August 29, August 26, September 4.

What's stunning is that the assistant deputy minister, in answer to Mr Marchese's question, says here: "The ministry has hired a consultant to undertake research into potential impacts. The consultant has provided interim results" — which we don't have, and I wonder what those interim results are — "from his study and is in the process of completing the final report. This report should be available shortly."

Having this in front of us, Mr Chairman, where the government has initiated, has hired a consultant to answer the question of Mr Marchese as to the impact on tenants, I am asking you and the committee how we can properly and correctly proceed when we have the government that has initiated a study on the crux of the matter: the impact on tenants. Not only do I support the motion of Mr Marchese, but I say we adjourn the entire matter until we have the results of this study. I would like to see the interim results from this study as well. I wonder why the interim results have not been tabled for our information and our own perusal.

At the moment I would have no hesitation — I have no other choice — in supporting the motion that is on the floor. I make an appeal to members on the government side to take this into serious consideration. The government has initiated a study and wants us to make a move on recommendations here. While the government has interim results and wants to see a completion of the study, I don't see how we can make a recommendation, how to go about it, while this study is not completed.

I am going to support the motion as it's been presented.

**Mr Curling:** I support Mr Marchese's motion and I agree totally with this. During the process of the hearings we heard from time to time from both sides presentations without sound knowledge and information and studies that would be available for them to have the kind of presentation that would be very helpful to this committee. Most of them, which is very important too and very good for us, were giving presentations on their own personal experience.

Studies and surveys are also a very integral part of any government making legislation to make up our minds on what direction we're to go as legislators. As a government, of course, you'd like us to have the kind of input that would be helpful, and I'm not quite sure I have that kind of ability to do so yet unless I have the necessary documents and studies being done and am able to analyse that.

As a matter of fact, legislative research has told us that even though the discussion paper was small, with the multitude of things involved in it, many presenters were not adequately able to address that. We know some of the problems.



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One of the problems was the limited time they were given, although we all agreed on that. It's funny that we were all blocked into one time frame and trying to put many people within that time frame, which was reduced to 20 minutes. Many people were not able to address all the issues involved, so their attempt was just to give personal experience in what is happening. By doing so, it limited them in many respects to adequately address that.

The most important part of any committee is that when presenters come before us, we ask them the necessary questions to glean from them answers or suggestions the committee would need to have a good document. But the time wasn't available.

It was rather interesting that even when we had Greg Lampert before us we requested some more time, because we thought maybe — some of the surveys and papers necessary for us to make those decisions weren't available — we could glean from some of the information needed. Again, we were restricted to a certain time in which we could do that. The government side, which voted against the motion, stated that was adequate time. They themselves, as you remember, Mr Chairman, ran out of time and would have asked him more questions. They then saw the importance of this.

This motion addresses directly what is needed. Mr Marchese is right on target when he says that he thinks the committee should stop right now and get all these documents on the table, get all these studies being done. Let us proceed with that.

I would appeal to my colleagues on the other side — they have not spoken but I'm confident that they would support this motion — that they too would see the importance of this and say, "Let us not rush into this." Remember, Mr Chairman, they said this is about the third government attempting to bring about good legislation in regard to rent control, and "Let us get it right." I don't think anybody could get it perfect, but we'd move in a direction where it is helpful on both sides, landlords and tenants.

The minister has a very complex issue to deal with. We have a responsibility to give him the best tools available, the best research, the best information, and to say to him: "Yes, Mr Minister, we have travelled the entire province. We would have travelled more and would have heard more, but in the limited time we were given, we heard enough to tell us that we didn't have enough information on which to give you the necessary directions."

I fully support this and I would hope that my other colleagues would do the same.

**Mr R. Gary Stewart (Peterborough):** I will not support the motion as it's written. First of all, as we've heard today, we've had five sets of hearings over the last number of years from three or four different parties. I suggest we probably have a whole lot of detail that's been garnered over the last number of years. If we were to do a study at this particular time, I think it would be extremely premature. We haven't even had the opportunity yet to answer some of the questions and then submit some type of report to give a direction to the people who might do a study, if a study is considered.

The other concern I have is that when I look at the motion, first of all, in the third paragraph, where it says this committee has "to ensure that no tenant falls into poverty as a result of the government's proposals," are we talking about jobs? Are we talking about rents? Are we talking about a lot of things? With that type of terminology in this, we cannot govern an individual's responsibility or his ability and whether he falls into poverty or not. That's not relevant to what we're talking about, as far as I'm concerned, on rent control.

Where you use the word "poverty" — and it seems to be bandied around a great deal these days — I don't think many people know what it really is, the terminology or the description of that word, and for that to be in this type of motion, I don't believe it is relevant at this particular time.

I guess the point is that with any type of study, we're strictly trying to brush it under the carpet for the moment. I believe we have to give some type of direction. We have to have some answers, which we have the ability to do ourselves after three weeks of being on the road in hearings. If we wanted to do a study, I would suggest we should have done it prior and then go on the road. This is a total waste of money to do it right now, because I think we have the ability to give some direction, I think we have the ability to expand on what we've heard over this last three weeks, without starting to worry about a study at this particular time.

I definitely won't support this motion. I believe we should get on with making some recommendations, giving some direction to the minister on what we have heard from the public, because they're the ones who are going to be affected by it.

**Mr Gerard Kennedy (York South):** I would ask the honourable member opposite to reconsider his opposition in the light of the fact that the hearings really reflect back to us the comments of the minister. The minister said his objectives were twofold. He wanted to ensure tenant protection for tenants and he wanted to ensure there be construction of new rental housing. I think it's fairly clear that on both those counts — we heard from tenants that they don't feel protected; we heard from landlords that they would not be building simply as a result of these measures.

It is very important that there be some fact-based resolution of those disparate positions, especially as neither support the government's position, and it would be in the government's interest. Surely, as my colleague Mr Sergio has already made clear, from the material submitted by the ministry, studies are already under way, studies this ministry is doing into these very impacts. It's not really a question of this committee ordering those studies; they're already happening.

I think it's especially appropriate, in the light of Mr Marchese's motion, that we find a way to discharge our duties as a committee, as reflected in the minister's statement, to be able to make those determinations. I think the fact-based resolution really behooves this committee to pursue, particularly because the kind of time implication mentioned by the member may not exist. We don't know. The response from the ministry says there are already interim results. Should not this commit-



tee have those interim results? Should we not have the study that's being done? If we have a responsibility to the people who have deputed here over the three weeks, that responsibility has got to include making sure there is not a separate process which is going to take the place of their discussions. This committee should have at its avail all the information relevant to this discussion, and if there are studies the ministry felt necessary to do as part of this, we need to have those here.

I'm a little disturbed that the member opposite — and I don't think this is what he intended. But when he says that rent control is not relevant to preventing people from living in poverty, we don't wish that to be the way the government asserts its attitude towards this discussion. Of course the only reason government would be acting as a referee is to prevent some of those outcomes, to prevent people living desperately, and that's what they're doing, I would suggest to the member opposite. They are living desperately in poverty, by any measure. Those are just technicalities to avoid the question.

We want to make sure — and we hope we can invite the member opposite to see it this way — that people aren't directly harmed, not indirectly through some vague thing, but directly harmed by the result of the government's measures. I only refer to the words of the minister that "Tenants must be protected from unfair rent increases" and that tenant protection is his object. Those statements are hard to reconcile if indeed Mr Stewart finds that the object is not to protect people from being harmed by poverty.

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Therefore, I would encourage the members opposite not to use that technical reason to not support what clearly is in the object of the legislation, the original legislation from the previous Conservative government. Subsequent rent review and rent control legislation were all about making sure that when the marketplace has broken down or isn't working, there is some useful function to protect people who would otherwise be very much harmed by living in poverty. I think those are the kind of things we do want to know, and if there must be some common ground, some basis on which we might wish to proceed in terms of writing a report, I think it has got to be around that.

I don't wish to put words in the mouth of the government side, but what I think most people will take from that is that somehow the government is not concerned to see that people are harmed by this. I don't think that's what the government intends, and therefore it shouldn't fear this motion, which really only asks us to do two things. One is to have access to the facts the ministry has gone out and commissioned that are directly germane to the considerations this committee has heard over the past three weeks. Second is to ensure that the scope of that includes protection for the most vulnerable people in society, and not in some general way but in the specific way it says in the motion, "the government proposals."

I think those are very responsible measures for this committee to have, particularly given the fact — I will just iterate again, as Mr Sergio has pointed out to us — that the government has these studies under way already,

so this may be only a matter of a short time until we can have this information in our possession.

Given the fact that the objectives the minister put in front of us with this report were to have tenant protection — and clearly we're finding that tenants don't believe they're being protected by this — and to have buildings built by landlords — well, landlords aren't finding that. We need to reference some facts if we're going to be of use to the minister in terms of responding here.

I would very much encourage the members opposite to see this motion as a constructive way of this committee addressing its mandate. I will be supporting this motion.

**Mr Ernie Hardeman (Oxford):** First of all, I want to say I will not be supporting the motion.

I want to agree with Mr Marchese in his comments to the motion where he suggests that the government will be moving ahead with changes to tenant protection or the changes in the rent control regime that presently exists in the province. I think that's based on what the minister said the first day the discussion paper was introduced, that the system is broken. It isn't working for tenants and it isn't working for landlords and it isn't working for the rental housing market.

If there is one thing that maybe we can all agree on, it's that the presentations that have been put before us through the three weeks of hearings point out that almost all agree that some changes need to be made to make the system more effective.

I also want to agree with Mr Curling in his comments when he says the minister has difficult decisions to make as to what will be the best package to protect tenants in the province.

I think we have to remember the purpose for the committee hearings. The purpose was that prior to writing legislation and prior to coming up with the final recommendations for legislation we heard from the public, both from the tenants and from the landlords, what was wrong with the present system, what should be changed to improve it, both to protect the tenants in terms of the level of rents they pay but also to deal with the type of accommodations available to them to rent. Obviously, tenant protection involves more than money. It involves being able to provide the type of accommodations that all are entitled to.

We have to make sure that we do not get confused with this part of the process, the public hearings on the legislation. As all the information is gathered from these committee hearings and from the studies which have been referred to that are presently ongoing within the ministry, we hope to come forward with the options that are available and the direction the minister feels we should be going to achieve the goals he set out for us. At that point they will put it together in a package and refer it back to the committee to deal with the proposed legislation, as the government deems appropriate.

I think it's inappropriate to put this part of the consultation process on hold while we're waiting for all the studies that are being used to draft the final document. I don't believe that the public hearings we held on this discussion paper were public hearings based on how we deal with the total package of housing in the province. It



was a discussion paper on some of the options being put forward; we wanted to hear what the public has to say on those items. I think we have done that.

As to the motion put forward by Mr Marchese, I suggest it helps define what the report to the minister should be, as opposed to recommendations. Maybe the appropriate way of dealing with it is to report back to the minister on what he asked us to do, which was tell him what the public had to say about the discussion paper. We do not necessarily have to have the policy paper defined by this committee. We have to report back so he is made aware of what the public, the builders and the developers and the land owners and the tenants feel is good about the discussion paper, where improvements can be made and which part of the discussion paper should be eliminated completely and where even things should be completely added.

If we were to support the resolution before us, I do not see it helping the situation, only delaying it, and I believe we should proceed with the report back to the minister with the information this committee gathered from the public. I would ask the committee to consider that and proceed with providing the minister with the information he has asked us to find.

**Mr Marchese:** You see, Mr Chair, I knew I had reason to be worried, and that's why I introduced this motion.

I'm going to deal with Mr Stewart's comments first and then come back to Mr Hardeman. Mr Stewart makes two contradictory remarks. On the one hand, he says the study's premature and on the other, he says this study should have been done before. This study should have been done before, it is being done, some of you are privy to it, and we are not. I'd like to be privy to the results of that study. In your response it says, "The consultant has provided interim results from his study and is in the process of completing the final report." He's provided that study to somebody. I presume Mr Hardeman has seen it as the PA; if he hasn't, it's a problem. But surely we should be provided with that study if it has been done, because it's very relevant to what we're doing here.

Mr Stewart says it's not relevant, but it is. It's completely relevant and all the deputations that have come before us spoke to this very issue, the relevance of what I am asking: the effects of this proposal on them. He says he doesn't quite understand what that means, that phrase about "no tenant falls into poverty." Well, there are three things.

There's decontrolling. Decontrolling means that some people will get an increase. We've heard a number of landlords who've said there will be increases. Some said, "No, because we have a high vacancy rate," and some admitted there will be increases. We know by and large, generally, there will be increases. Will that affect issues of affordability and therefore poverty? Absolutely.

There's the whole issue of the additional increases this government is proposing, that is, to increase the beyond-guideline capital expenditures from 3% to 4%, and also the cost pass-through of taxes and utilities. All of those are going to be increases on those who are currently renting and those who are going to be moving. That will cause further financial stress on everybody, not just those

sitting ducks in those apartments, but those who will move. Will that affect issues of affordability? Absolutely.

We have heard that one third of all the tenants make less than \$20,000. That's a serious problem. He doesn't make the connection between affordability, poverty and what these increases are going to be. Decontrolling will create increases. Above-guideline increases will create financial problems. The removal of the Rental Housing Protection Act will create problems. We know the condominium association is very worried because they know there will be conversions to condominiums. It will mean that a lot of people will be displaced. Is that going to cause a problem for people and affordability and therefore poverty? Yes, absolutely. I see that connection. Maybe you don't, but all the submissions saw the connection between the implications of your proposals and what it will mean to their ability to afford rents. There's a direct connection to the question and the motion I put forward. Obviously Mr Stewart doesn't see it, but everybody else does.

1140

We also have the matters that Mr Hardeman said, and he proposes two interesting remarks which I think are contradictory. On the one hand, he says we'll be moving ahead; on the other hand, he says these are hearings where we just want to hear from people; they're just discussions. What does that mean to me and to the tenants? They'll be forging ahead with this proposal with some minor recommendations where they're likely to remove the maximum after decontrol, because that's what landlords said, and some minor tinkering for some rights with respect to tenants. That's not going to do it for me. So they have a right to worry because this is a bonanza for the landlord. This is a transfer of money from tenants to landlords; there's no doubt about that.

There's nothing in this proposal for tenants. So when Mr Hardeman talks about the stated goals of this proposal and that they will be achieved, the stated goals were (1) that there will be no double-digit increases for tenants, that it will protect tenants, and this proposal doesn't do that; and the other one is that it will create further housing accommodation for people. There's no evidence for that either. These are the goals and Mr Hardeman says we're going to accomplish those goals. I don't know how he's going to do either of them. One, it doesn't protect tenants, and the other one, it's not going to build any rental accommodation.

How do we know that? We know that as well from the studies that have been done by Mr Lampert. Mr Lampert says — he gives a dollar figure — that even if we go through these regulatory changes — that's a \$200 amount that he talks about — the gap is \$3,000 between what the builders can build at and what people can afford to pay. That \$200 is not going to stimulate the economy very much. He says, "Oh yeah, that'll get things going." I don't believe that. He knows it too. He knows that's what landlords want. But the tenants certainly know that they're not going to get any rental accommodation that they can afford. We know that too. We asked many of the landlords and many of the developers how they would respond to affordable housing and they said it's none of their business really. The government needs to worry



about affordable housing, not them. That's a worry for me. That's why we were building cooperative housing and non-profit housing, because it was affordable and, in the long run, cheaper.

Mr Maves talks about — I don't know, whatever study, including Lampert, who says it costs too much, but in the end, if you analyse it properly, we have a public asset and it's cheaper in the long run. We argue, in fact, it's more costly to do shelter allowances in the end, whereas you argue differently. Shelter allowance will be more costly. It will be a lot less than what they get now and it will be a lot more costly to subsidize that landlord with shelter allowance. So it's not going to achieve those goals.

So it's not inappropriate at all to wait for these studies. I want to see the study that either Mr Hardeman has or the minister has, the interim study, and I certainly want to see its completion to understand the implication it's going to have on tenants, because from everything we've heard, it will have a direct impact on them.

We've had two types of experts in this committee. We've had the landlord, who knows all, and we have the tenants, who suffer the experiences of living in the rental accommodation owned by the private landlord, developers and so on. We have two different types of experts. The tenant, who has to live in that kind of experience and knows the kinds of problems he or she has had to suffer and that is why they come forward with their expertise over a long history of being tenants as to the implications of these proposals. That's why they came in front of this committee and told us, "Keep rent control." They know that decontrol will affect them. That's why they came forward saying, "We've got a problem; please don't change it." Virtually every one of them said as much. I don't know how you're going to reconcile the fact that all of these experts, both tenants and agencies, legal clinics, came in front of our committee saying that if you do this it's going to have some serious economic implications to a lot of tenants.

If you don't listen to those experts and you're only going to listen to the landlord expert and those who are closely connected to this party, we have a problem. That's why we want you in advance to give us these studies so we know the effects on them. Once we know that, we'll be able to have a better discussion. But for both Mr Stewart and Mr Hardeman to say this is an inappropriate study is wrong, because if you go ahead assuming it will not have an impact, then you didn't listen to the deputations, because it does have an impact; it will. If you're saying it's an inappropriate study, what you're saying is we haven't heard a thing from the tenants. That's really what you're saying. You can say, "Oh yes, we've heard them," but if you disregard the study, put it aside, what you're doing is you are not listening to what 65% of the deputations have told you, that this is going to be a problem for them.

I know that you will forge ahead with this proposal. I know that you will do that and my sense is that you will want to go ahead presenting this summary as it is and give it to the minister in that form. That's not going to help our discussions very much. So we want to urge you, before you do that, to present this study, or once you've

defeated this, as I know you will, I would like you to take a position on decontrolling and the Rental Housing Protection Act so that I will have a good sense of what I'm dealing with and not have to wait until your minister brings forth a bill that very much has this same thing, and then we'll go through this all over again. I'd like to be a bit prepared in that regard, but I tell you, with respect to this motion, we need it, we need to have the study. I'm going to request, after this motion is defeated, that we get a hold of this study, the interim study, and that we have access to its completion once it's done. But Mr Chairman, I wanted to deal with Mr Stewart's remarks and Mr Hardeman's because this is not an unnecessary thing. It's very much connected to poverty and affordability and tenants need to know that.

**Mr Curling:** I won't be very long, but I was quite surprised, of course, at Mr Stewart and especially Mr Hardeman, who said they will not be supporting this and the statement, in fact, that poverty has nothing to do with this.

I would like to believe that the minister's mind was not made up before he got into this but it seems to me his mind was made up, as Mr Hardeman said. Mr Hardeman, I feel that in any kind of discussions or any kind of hearings, if we are open in that process in what we're getting, we can, as I said, formulate better legislation. But yes, I'm now convinced not only that the minister's mind was made up, but all those he had sent forth on the committee were instructed to go in one direction. It's unfortunate, but again, I cannot as a member of the committee not make my contribution and try to convince you otherwise, to be as democratic and as open as possible.

We were reminded over and over in the hearings that this is a discussion paper. It seems to me the opposition — the lectures we were getting, what was said to us, that the opposition does not understand that this is a discussion paper. I myself came back into my fold and said, "Okay, the minister's mind is not made up, therefore it's a discussion paper," so what is the information that we have before us to give the direction to the minister, the best advice we can? But it doesn't seem so at all.

Poverty has a lot to do with it. We were moved to very heart-wrenching experiences by tenants who told us openly that the Rent Control Act helped them to be where they are today or they'd be on the street. People came to us and told us that, thank God, we had legislation that protects them from poverty. People have come to us and said to us that the decision by the government to cut 21.6% to the most vulnerable people from their allowance was devastating to them, and they are now trying to regroup how they live in poverty. Mr Stewart tried to put his own definition on poverty. It is basically where people can't afford adequate, decent and affordable housing and not to be bargaining for food, as their government feels one should bargain and barter for food. "Go into the store and see if you can get tuna cheaper. Go over and try to barter for that," not realizing too that they are using the same approach here for housing, to say, "Go out and negotiate and barter for what you want in housing accommodation." Cancel the rent registry, as many other groups have said.



1150

We're saying the studies that are provided by taxpayers' money should be available. It's almost as when the Greg Lampert report was out and we were trying to get a copy of the document. It was like it was one of the most precious little documents we could ever find. We didn't even get a copy. To even get Mr Lampert in was quite difficult too — paid for by taxpayers.

People were saying: "What you are going to do is going to affect us. You are going to affect how I survive for food and accommodation."

The cancellation of non-profit housing: Their cancellation in the sense that far less affordable housing will be built and therefore the access to that will be limited, and to say that that's going to have an impact on us. We have to go and negotiate at a higher level.

It has to do with poverty, and if we are guessing and I don't know what I'm talking about then get me those documents and those studies to say to the minister, "Minister, what I'm hearing and what the studies are saying are inconsistent," and I'll go along with what the studies are saying. But we have to balance it in some respect that if the study's saying one aspect of things and the presenters are saying something else, then we have to come to grips with it and then say that's the direction we are to go.

I am fully convinced that the minister and his group, their minds were made up. They decided to cancel rent control, to put the most vulnerable people at the wish of the landlords and to say, "We will work it out for you." Mr Lampert actually told us that he believes in the trickle-down theory of economics, that they will build at the higher end and those who are poor will just have to wait, because somehow those people who have lots of salary and are occupying accommodation could pay for more and they may move. They will move and somehow you'll get it.

In other words, if all those who have eaten around the table, we can feed them enough, somehow they shall be filled and what is left over will be given to the poor. We don't believe in a society like that that is rich. We don't believe at all. We think that resources are abundant, but the only problem is distribution, the problem of poverty. That is there. Far less people are earning more and far more people are earning less. Poverty is one of the main ingredients of the fact that we're suffering today. Resources are in abundance.

I would say to you that all those who are suffering today in the line of poverty — Mr Stewart feels that we have new definition of it all — all those students who have dropped out of school because tuition fees went up and now we'll be faced with the fact that decontrol will cause them to be paying more for their accommodation. Then they have to make a decision. "Do I eat or do I pay for accommodation or do I drop out altogether?" I would say so.

Mr Chairman, I would ask you, though you have no influence on that but just to listen, and I appeal to my colleagues across, this is not a partisan issue. This is a people issue. It's an issue of people who are poor, who have no access to affordable, decent and safe accommodation. This is an issue that talks about people who have

to go to food banks because they have to pay a higher rate of rent.

I wonder if we had those studies to show and tell the government, the same studies that you've had and are preparing to share with us, to share as legislators that we can sit down and objectively direct the minister and direct even the parliamentary assistant, who I know has the ear of the minister daily. He speaks to the minister every day. He can tell the minister what's happening and I know you can, Mr Hardeman. I know you can, and you are quite an influential individual, you personally. I had hoped of course that the minister would be here all through the hearings to hear this, but I am confident now. I used to say that the minister should be here, but I am not concerned any more. Mr Hardeman is a respectable individual, a man I've learned to respect a lot as compassionate, have heard the stories of those individuals who've come to say to the committee that it's a matter of adequate funds. It's not a matter of rent control itself; it's a matter of affordability. "I can't afford it. It's poverty that is causing me to live in the rat-infested areas."

A lady came and showed us pictures of where she lived. The pipes were frozen, her clothes were frozen. She couldn't put them on. Poverty was causing all this, and when we say it has nothing to do with poverty, we have missed the boat completely.

Of course you have been accused of not being compassionate. I know you are; deep down you all are. You are concerned about the individuals in our society. I know you do that, sir, and I strongly urge you all to support that, and I hoped that more of the city people who would be on this committee some time — they come in and out — but I hoped there were much more here.

The last point I'll make, we found out when we went around the province people were telling us —

**The Chair:** Mr Curling, it's past noon. I'm going to let you finish if you're about ready to finish. If not, you can carry on at 2 o'clock. Which would you prefer? Do you want some more time at 2 o'clock?

**Mr Curling:** We could go back at 2 o'clock if you want.

**The Chair:** We'll recess until 2 o'clock.

*The committee recessed from 1156 to 1406.*

**The Chair:** We will resume our discussion and our debate on a motion put forward by Mr Marchese that's on the floor. When we recessed at 12 o'clock, Mr Curling had the floor.

**Mr Curling:** As I was saying before the adjournment, it is extremely important that we have all documents and all information before us. We have seen, as we went around, that poverty plays an extremely important role — as a matter of fact, income, if I want to even say "poverty" — money plays a very important role in how people survive.

The problem with this is that if we could have some studies available to us to show the impact that this legislation will have on people who are in that category, it would be extremely helpful to direct or redirect the legislative research staff in writing this report, because I'm convinced that the minister needs all information, as much as possible, to make the best legislation possible, which is so important, and he himself has stated that. He



himself stated that he has heard the landlords' side and the tenants' side. I'm not so convinced he has heard the tenants' side as much, because this is what the people are saying.

As a matter of fact, Lampert himself said he did not even consult with tenants. I was quite surprised about that. So those it affects most are not being heard. Some of the experts we sometimes pay some big bucks for, lots of money, the taxpayers' money, who have come up with some very pertinent information and pertinent facts, would be extremely helpful. All I'm saying is that if we could have that available to us, it would be helpful.

**Mr Sergio:** Before I'll say a few things, I would also like to give notice that I wish to introduce a motion some time later on during the process. I think it's healthy that we are debating this process now, but let me say this first, because I think not only the minister but you, as members of the government, are struggling with this particular proposal as well. I would feel more at ease, if you will, if I could see the information the government side has now with respect to the interim result of this study.

Further, why I think it's of extreme importance that we don't rush into it and we do things properly is because the government, the minister, is relying very heavily on the report by Lampert. The problem is, and I hope this will really appeal to the common sense of the members, the second question and the answer of the government on the second question, which is, can the government table any studies showing how many units will be built across Ontario and in Metro Toronto as a result of its proposed change to rent control? How many jobs will result? Stuff like that.

The response from the minister is that the ministry's research on this issue is contained in the Lampert report. This is the problem, because we had Mr Lampert in Kitchener on Thursday, and with all that Mr Lampert is saying, pages 6, 7 and 8, all the things he's suggested the government should be doing in order to get the thing moving, at the end he said, in answer to another question, that no one will be building any units for the lower end.

This is the answer which the minister is giving here in response to the second question of Mr Marchese, that the answer is in Lampert's report. Mr Lampert unequivocally said on Thursday that no one is going to be building any units whatsoever. So this gives us a big problem. I think that's where the minister is struggling with the problem as well, because he knows that no one is going to build any units. The answer from Mr Lampert is that no one is going to be building any units.

So don't you think that it's extremely important to get whatever answer we can get from this consultant now as to their report, and then we can proceed accordingly? I don't think I have any doubts, and I agree with the parliamentary assistant, that the government is going to move on this. But if and when you do that, I think we have to have the facts. You have the responsibility to provide the facts to us, to the people. I think this is public information, and as such I think we should be provided with that information. I believe that you, as responsible members of the government, and we should avail ourselves of all the information so that nothing will

impinge on our decision and whatever recommendation we'll be making.

The request of the minister, and the direction of the Legislature and the minister himself, is to provide a positive response once we've heard from both sides, and we did. So the minister is looking to us for a positive response. If we are to proceed today without that information, we can't provide a proper response. That's all I have to say at the moment.

**The Chair:** Thank you, Mr Sergio. Mr Stewart, I had you down. Do you have any further comment?

**Mr Stewart:** Yes, I do. I had a little concern this morning after listening to a couple of the members opposite. It appeared to me that the words were being turned around to support their thoughts or doctrine, whatever you wish to call it. I guess the concern I have is that there are many, many things that contribute to poverty. When I read the third paragraph, in my mind, it did not relate totally to the issue that we're talking about. That's why I didn't wish to support it.

**The Chair:** Seeing no further discussion on the motion, I'll put the question.

**Mr Marchese:** Recorded vote.

**The Chair:** At Mr Marchese's request, a recorded vote.

#### Ayes

Curling, Kennedy, Marchese, Sergio.

#### Nays

Danford, Hardeman, Maves, Ross, Stewart, Wettlaufer.

**The Chair:** The motion is defeated. Mr Curling.

**Mr Curling:** I have a motion to put forward to the committee, but before I do that, on a matter of procedure, I understand that it's circulated that the committee is meeting on Friday. I have no instructions of such and no authorization from my caucus to sit on Friday. Could you tell me, how is it that we are sitting on Friday?

**The Chair:** The instructions we were given were that any committees scheduled to meet this week were allowed to meet on Friday and we consequently scheduled a meeting. There is a letter coming that confirms those instructions.

**Mr Curling:** I would like to see that letter, because the only instruction that I have — and I will await this letter until it comes, Mr Chairman —

**The Chair:** Once I receive the letter, I'll see that you have a copy of it.

**Mr Curling:** I have a copy of a letter here, so when we receive it, when we get it, we can deal with that then.

I have a motion and the motion reads:

In the document dated September 4, 1996, received today, that attempts to respond to questions raised by the opposition members on this committee, the ministry on page 2 states:

"The ministry has hired a consultant to undertake research into potential impacts. The consultant has provided interim results from his study and is in the process of completing the final report. The report should be available shortly."



In order that we, as legislators, make a positive contribution to this process, I would like to move that the stated interim results from this consultant's study be tabled immediately in order to use the information to formulate the committee's final report.

Furthermore, will the government table the final report to this committee before the committee completes its final report to the Legislature.

I so move.

**The Chair:** Thank you, Mr Curling. Can I have a copy of it?

Mr Curling has put forward a motion. Have you got copies? While the clerk is passing copies of the motion around, Mr Curling, did you have some opening comments you wanted to make?

**Mr Curling:** Yes, Mr Chairman, I do have. In the document of September 4 — let me read what it says here. The question was asked by Mr Marchese: "Can the government table any studies that show the impact on tenants of the proposed changes to rent control?" The ministry so generously responded by stating, "The ministry has hired a consultant to undertake research into potential impacts. The consultant has provided interim results from his study and is in the process of completing the final report. The report should be available shortly."

I took the minister's word very seriously when he stated that he wanted a positive input into the report that will be submitted to him. I define "positive" in this way: I define it not only that he wants to have consultations around the province with tenants and landlords and all those who have interest in this legislation that is being changed but also that he would like to know if there are any documents, any studies that have been done to have an input into that. Then, having all those documents, we, as I said, would be charged to give positive input into that final report.

I was delighted to know that the ministry had moved on the fact to do some studies. I would have thought all along that maybe the minister and the government were only depending on those people who come before us as we go around the province. I was delighted to know that some studies were being done. As we know, studies sometimes are very expensive and government sometimes has to be accountable to all this and say how much it costs. Therefore I'm sure it was an extensive study, extensive to the point that right now we're just in the interim basis and some pertinent facts must be available right now. Because, as it read, it seems to me that an interim report has been submitted to the minister and he is using those results now from that study to assist in the report. As he has that available to him, I feel he should also make it available to the standing committee, whom the Legislature has charged to come up with a positive input into this.

1420

I even commended the legislative research staff who had done a tremendous job in précisising all that they've heard. We have that available and I want to commend them for that. But it's not complete, it's not adequate, and they would admit to that readily. Mr Richmond even stated that his experience over the years with many, many governments — he could feel the knowledge in that, but

even that is not sufficient itself. We want to know the current studies that are being undertaken and the impact it has immediately on tenants, and if we have that available I'm sure the minister will be better informed, better equipped in bringing about the legislation.

I know and I seem to be growing with confidence that, as we saw my colleagues around the province listen attentively, people would have their own personal experience of their impact on this. I've watched my colleagues who were hearing that this is a Toronto issue and rent control only has an impact on Toronto, that people in Thunder Bay and people in Sault Ste Marie were expressing the same fears about available and affordable accommodation in the rental market. It would have seemed, Mr Chairman, that it didn't matter where you were. You could be in Windsor, you could even be in London. London has shown a very high rate of vacancy, but still yet the affordability problem continues to haunt us.

We saw a great experience and the statistics have shown, we have to glean from that, in Thunder Bay, when someone said that the vacancy rate has increased; however, although the vacancy rates have increased and there are more available rental units their people on the affordable list was larger at that time than when the vacancy rate was much smaller, to tell us that it doesn't really matter in some cases whether they're available rental units. But it matters if there are available, affordable rental units.

Studies that are being done, are undertaken and being paid for by the government I know will draw that out. It will help us to make the kind of contribution, the comments, the response and the direction and the guidance to the legislative research staff that came from not only what we heard but also some of those studies. As a matter of fact, we know these things should be available to us and we need the cooperation of the minister, who has those documents in his possession. I'm sure he hasn't got anything to hide, because if he does, he tells us that his agenda is much different than what we thought it would be. I think he wants to resolve this issue.

So if there is something in that document that is pertinent to have good legislation, then share it with us. Share it with us so we can tell you from our experience also and from our analysis of it all what we think should be there in the final report. If there is something there that the minister doesn't want us to know because it may not be consistent with his agenda and the agenda is to get rid of rent control; in other words, he has a preconceived idea immediately of where he wants to go, because he wants to satisfy — and I hope it's not that he just wants to satisfy the landlords, who would say, "Get rid of rent control." This document does not state that or state to the contrary and he feels it's better off to suppress it. That's a no-no. That's pretty naughty of the minister to do that because as I said, the study is paid for by taxpayers. It is available and it was done in order that we could have better legislation. The reason sometimes for poor legislation is because sometimes information is being withheld. By doing that, we are doing an injustice to the people we want to serve.

The people we want to serve, very much so in this, there's no doubt about this — rent control is to protect



those most vulnerable in our society. If we decide that we have a study that would help to do that protection and hide that, we're doing an injustice to those who we serve most.

I think the chicken will come home to roost eventually. Eventually the people will see the light, and they are seeing the light as we go along. They're seeing the light where even at times the contradictory arguments put forward by some landlords that they want to have their cake and eat it, they want to make sure the guideline is there so that it protects the legal maximum rent but in the meantime would like to cancel rent control, telling us: "Listen, you can't have your cake and eat it. You have to decide one thing or the other." You know your agenda is to cancel out rent control. Studies have shown that if rent control goes, what will happen is that no affordable housing will be built by that anyhow, said by authorities, experts, consultants, lots of big bucks being paid, and they come up with the same thing.

My feeling too is that the paper that is being done for the minister, the study that has been done for the minister, would throw a lot of light on what we want to say and what we want to do and the direction that we want to go.

I know that the agenda for the government is to get things done quickly, sometimes in such a manner that we ignore democracy. I don't intend to lecture my colleagues here, but it is so important I want to say, though, democracy is a very slow process and an expensive process, not the perfect thing, but it's the best we have. When we try to force this situation, you know what happens. We know what happens when we tried to force legislation or force authority on people and they don't understand it. The backlash is worse than the cause and the intent of the government. This government, in its short reign, has seen that, has seen that you don't do that. If you do that, you shall be punished.

Of course, in this democratic, this wonderful, beautiful country of ours, in Canada, even though people are really tempered by what's happening and are mad and upset, they know the process. The seniors did that to Mulroney when they said, "We shall remember you." The other people would say, "We know you have a mandate with which to govern and we will allow you to govern, but when the time comes to be accountable, you will pay the price." These days people feel that by the time the damage has been done, they feel so helpless. They feel completely that their entire lives are in the hands of politicians who dictate where they should go, no matter what they say, no matter what consultation takes place.

But the government has an agenda to say, "We shall put this law in place at that time," a specific time. They would then say, "Come hell or high water, this legislation will be coming through." I'm saying now we shouldn't be doing that. We should take our time, make sure that we have the best legislation possible and if there are studies that are being done, let us analyse those, let us make sure that the information and the instructions we give are given in a way that all avenues have been checked, all the interest groups have been consulted, all the experts have been spoken to, as much as possible. I understand too that there's a time you have to make some decisions,

but people know when you hurry this process what happens, that they have not been spoken to.

When we went around the province — I'm not asking for you to reopen the consultation process. Many students are saying, "It came at a time when we were looking for accommodation and we had no time to make our presentations." They came to me after the hearings and said, "I wish I had some time to make this presentation," and I said, "The government is trying its best in a short time to ram things through," and that is why they only had 20 minutes and many times the people didn't even have the time to ask pertinent questions. They say that's very unfortunate.

1430

It's more unfortunate for us as legislators, more than unfortunate for them, who will feel it later on. It's unfortunate because we want to make proper legislation, good legislation. It would be unfortunate for them that later down the road we have legislation that does not in any way protect them. They will say: "I want to tell you that. Did you do any studies?" You'll say, "We did." "So where are those studies?" We'll say, "We don't know." They'll say, "Who paid for those studies?" "The government." "Isn't the government us, taxpayers' money? Why is it that it wasn't available for you to know the impact it is going to have on us tenants will be this severe?" We'll say: "I read the report, yes. It said that the impact was going to be quite severe." They'll say, "When did you read the report?" "After the legislation." They'll say, "That's funny, why would you have the cart before the horse?" We'll say, "That's how the agenda was prepared by the government." They'll say, "Did you say anything?" This is the opportunity, and I come to it now. Yes, I am saying it now. Don't make that mistake.

You have those studies that are being done. You have the available information. Share it. Some of the perspective that you would see from a government side or from a landlord side is not the same thing we will see from the opposition side or from the committee side or from the tenants' side. No wonder I was in complete shock in some respects that some of the reports that you have done — the government that is, Mr Chairman — in some of those reports they did not consult tenants. I'd like to know, if you do have this report — which you have said you do have, and as a matter of fact we're not guessing — these hired consultants, these experts have undertaken, I'm sure, extensive research into the potential impacts this legislation will have on tenants, that they make them available.

The big question here, as I said, is why wouldn't the government make this available to us? Then one becomes very curious or suspicious that you have these studies and you don't want to make them available. Maybe I would ask the members then. These studies were not available to the opposition and I wouldn't say that you would do that. I would say that it wasn't available to anyone. But let me start it the other way; let me look at it from another point of view. Should the government side vote against this, it tells me they have seen the study, because they are intelligent people, they are honourable people. They would never vote on anything unless they had seen it — unless it's Bill 26, where you all were voting one



way and hadn't even read the document. But I thought you'd learned from that process that it's important that legislators read those documents before you vote on them.

Therefore, I'm saying that these impact studies are being read by the government, and what they saw is contrary to where the minister wants to go. Then your conscience becomes a challenge to you all: "Can I really vote against this motion? Did I get instructions from my whip, 'Regardless of what, don't let them have that study because it will reveal to us and reveal to them that the direction they're going and the direction we are going as a government is wrong and has no protection for tenants'?" This is what tenants were saying.

Many of you may be saying that it's not working. The minister said at one stage, "Tenants don't like it, landlords don't like it, so I've got to fix it." No, no, no. We heard tenants saying: "It's not perfect, but what you're bringing, this new direction you're going, is going to make it worse. Since you don't have anything else, since your discussion paper is heading in the wrong direction, this new direction you're going is the wrong direction, then leave it alone until you can come up with a better direction."

But you are adamant to go in a direction that tenants are warning you against. You are adamant to go in a direction that even Lampert tells you will not bring you the kind of results you're looking for. You may be adamant. We have to speculate here that the studies that are available right now, paid for by taxpayers, are either not read by you or you are instructed to vote against that.

I know that many of our colleagues, especially in the Metro area, in the city area, are sometimes visibly absent from this discussion. We wanted some lively discussions and the impact it will make on their constituencies. They are visibly absent, and I understand that. I understand that some politicians maybe don't want to face up to it. I have been there where I, as the minister and a city politician, had to face up to the impact it was going to have and face landlords and face tenants and make a tough decision. I had consultation and research papers that I had to deal with, and I dealt with them.

People want honesty. They want us to participate, and the absence of many of our city politicians bothers me a bit. It tells me that it is almost a deliberate strategy to get people who are not impacted as much to sit here on this committee. But it doesn't matter to me, on the other hand, because each colleague who sits across from me — I know they're honourable people and have a conscience. I know they have a conscience and I know within those reports, which I haven't read, there are things there that are so pertinent, have got to be. They paid big bucks for it; they'd better deliver. If they are not properly researched, we will tell them that and we'll reject it over on this side. We'll tell you that this study is lightweight, doesn't hit the target where we want, didn't ask the right questions. We'll tell you that, and then we can instruct the legislative research staff to do their job. Then the spin doctors in the government can do their other job. So when the legislation comes through and we're going to go clause by clause, we understand that it was done from a well-informed base.

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So I'm going to say to you, my colleagues over there, if you have nothing to hide, you'll vote for this motion and say, "Yes, you can have these documents because we have nothing to hide." Let me put it this way to you too: Regardless of what's in that document, you'll get your way. You will say you have the majority. You can put the legislation in place and when the time comes you'll vote and you will win, meaning that you have more votes on that side than on the opposition side. You'll be better for it because they will say: "Here are my hands. There's nothing else up my sleeve. It's what we heard and it's what we drafted."

Don't let me start thinking now, as I thought before, that as we speak that legislation is being drafted right now in the basement, so therefore what's the use getting all these documents now, that as we speak the government is making all the changes so that the level playing field that they speak about is such that tenants wouldn't have a good game in any way at all because the field would be all tilted on the other side and landlords have told them that we've got to level this off, "levelling it off" meaning that there are too many protections in this legislation. As a matter of fact, it's too complex.

I would urge you to make this available. There are ways, of course, that we can get it. We can get these documents. If you want to put us through all those jumps, hoops or loops we've got to go through, we may have to do that, but I'm saying you wouldn't be doing that to us. You wouldn't. You would make sure that we have the documents and information available.

Many of the tenants who came before us had also stated that they didn't have enough time in which to make an informal presentation. Some of the best presenters that came before us were those who said: "I will speak straight from experience and from what has happened to me over the years. I want to know that we have a government that will protect us. I want to know that we have a government that will be looking after my interests. We'd like to have a government that could make legislation that wouldn't have me going to the courts, paying lawyers' high fees, just to get what is right for me, just to get to interpret some very awkward laws that are being made by ill-informed legislators or inadequately informed legislators." They want a government to protect them from the point where big landlords who have money can have them through the hoops all the time.

Pertinent information is extremely important for good legislation. If we pull that back, if we do not make that available, what happens is that sometimes it goes to riot really, sometimes it goes to people who are so upset there is destruction of property. We see it reflected everywhere: They can't get at the system, so they get at the structures that are before them. We don't want that to happen. We want them to see that we have a Minister of Housing who wants to be the Minister of Housing, who wants to be in it, not a Minister of Housing who says, "I want to get out of the housing business." Who does he protect? I don't want a Minister of Housing who only protects on one side of the fence and it's landlords. Landlords know that if he does that, it will not be beneficial to them.



Landlords came before us and said, "Could you, government, prepare legislation, prepare some laws that will not make any other lawmakers reverse the process?" What a way to go, to say to us: "Will you not bring back rent control? You try and make a law that any other government that gets into power can't bring it back." Let me warn all the folks out there that we are the lawmakers and we represent the people. The people are the lawmakers for the people, and they must be by the people. If it's going to be bad law, it will be changed. If it's going to be any kind of a law that protects just one interest group, it will be changed, because we need fair laws. That's what makes this country a good country. It's different from many other countries. I don't think it's better than all countries, but it's a good country. What makes a good country are the laws of the country and how they're done, how democratically they're done.

You saw this very quiet dragon of Canada, Ontarians, you saw what happened when you rammed some other bills through without even reading them yourself. I wouldn't say you should be ashamed of yourself, but it woke you up. Even your Premier said: "It was the wrong direction we were going. We've got to listen to the people." When we don't, it bothers them; as a matter of fact to the extent that you can be thrown out of office. We've seen that.

So I'm saying to you, my colleagues in the government, support this motion and make the documents available to us so we can have, once and for all, legislation that will fully reflect all interest groups. Have a document itself that will say that we have consulted widely, that we didn't hurry it. We don't have to have this legislation by fall. No, we don't have to. Why? Tell me, what's the big deal about having it by fall if it's going to be wrong, if it's going to be misguided? You don't have to. As a matter of fact, I'd much rather see good legislation next fall instead of this fall; but good legislation, not bad legislation now. So I'm saying to you, support this.

I know my other colleagues would like to speak on this motion, so I will stop here.

**Mr Marchese:** I support Mr Curling's motion. It's very much a corollary of what we were discussing earlier. It's a curious thing, because I asked Mr Lampert that very question. I asked him, "Should the government do a study with respect to the impact it would have on tenants?" Mr Lampert said: "No, we don't need any studies. It's already being done." The curious thing about that is that the government is doing one. Although Mr Lampert said that their chief economist was analysing this, that we don't need one, the minister obviously has the good sense to do an impact study because he knows — and he's equally as worried as we are — that there's going to be a problem. Otherwise he wouldn't have been doing one. Because if Lampert, on the one hand, said we don't need one and the minister says we do, he's concerned.

I'm happy to know that is the case. If that is so, presumably he would want to share that report with us. I guess we'll be hearing from Mr Hardeman with respect to that. I'm assuming that if it's a document the minister

has commissioned, he would want us to see that. I know he'll comment very shortly.

The other comment I wanted to make with respect to this is that Mr Hardeman probably has had enough time to call ahead to find out whether the minister thinks it's a good idea to share with us. If he hasn't done that, I could give him a few minutes to do that and speak through that telephone call. I think we need that study and if the government thinks we need it, hopefully they think that they should share that document with us.

**Mr Kennedy:** This is indeed a chance for the members opposite to show that they have nothing to fear from the facts. We have heard from many points of opinion, but our obligation is to do more than that: We're to evaluate, review and report. There is no basis under which that can happen if the government in this particular instance, looking at one of the stated intentions of what this whole exercise in terms of the hearings and the ministry report is all about, proposes not to divulge what the impacts on tenants are going to be.

It's an exemplary opportunity for Mr Parker, who will speak shortly, to let us know that perhaps this is an initiative arising from some of those members on the government side who have many tenants. Maybe this is the outcropping of their concern for some of their constituents to see what the impacts are, because certainly all through these hearings we have heard from tenants who are prone not to believe that this government has taken their interests to heart.

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So it is, as some of my colleagues have already mentioned, encouraging in a way, gives some sense of direction, some potential direction to what this committee might do with its responsibility, to know that the government has actually commissioned studies to learn what the impacts on tenants will be. It goes right to the heart of the job which is in front of us, but even more so to the heart of the fairness of this whole process. We have the impact according to landlords in the Lampert report, which was difficult to obtain, and only after the significant intervention of my colleague Alvin Curling were we able to actually address Mr Lampert and find out some of the bona fides of his report.

This really is a choice for the government side to express itself as to whether it really wants to try to resolve conflict, or is it only interested in setting up artificial conflict between landlords and tenants? It is anticipated in the remarks that the minister made that there would be conflict, but we need the facts to do our job. If there is some reason that this government is afraid to put that forward, then it should state so. And I hope to hear that very shortly from Mr Parker, because I think there is great concern on the part of people out there: What does this government do when it comes to opposing concerns? Does it try to understand them? Does it research and try to learn where those things might fit into its agenda, or does it just steamroller over them?

I think, notwithstanding that scepticism, this committee has heard from hundreds of people who would like this government to listen, who would like it to reference the facts, and it is only fair that if the government has indeed lived up to part of that expectation, that we on the



opposition side should share in those facts. We would like to discharge our obligation as constructive members of this committee to get the best result, the best recommendations to this minister. So I hope that we will hear very shortly what the government's intentions in this regard are.

We invite the support of the government members so at least they will know that the government individual members and the tenants and the general public interest, which they're discharged to represent, won't be lost in consideration of some artificial agenda. Because we have only one obligation here as a committee, and that is to produce the best recommendations we can to the minister, to respect indeed the input that we've received over these many weeks from people and the input which couldn't make it to us which came in written form and some of the informal contact many of us have had with tenants and with landlords. To do that something fundamental has to prevail, and that is basic fairness, a spirit of inquiry on the part of this committee.

I sat on another committee not long ago looking into the matter of video lottery terminals, and at the end of the proceedings we heard one of the Conservative members describe the proceedings as a farce, as a fait accompli, as not worth doing. I hope that the members of the government side who are here today don't share that view of these proceedings. That can be amply demonstrated in your support for this motion and in your participation in the follow-through and incorporating those facts into the report and recommendations to the minister. I look forward to your response.

**Mr John L. Parker (York East):** I am grateful and encouraged that my friends opposite have indicated that they are looking forward to my remarks. I hope they listen carefully to what I have to say, and I hope that if these remarks are repeated they are repeated fully and in context.

I am speaking as an individual member, not representing cabinet, not representing the minister, not representing the government per se. I am speaking as an individual member. I oppose this motion. I oppose this motion on grounds of process, and I oppose this motion on grounds of substance as well.

Let's look at what the motion calls for. The motion calls for the "interim results from a study to be tabled immediately in order that the committee can use the information to formulate the committee's final report." I'm interested that the motion calls for the interim results of a study to be tabled immediately, and that the interim results be tabled immediately so that the committee can use the information to formulate the committee's final report.

This committee has just completed a long and thorough process of analysing the government's white paper. Bear in mind that it is a white paper we're talking about, not legislation. We are not looking at legislation; we are looking at a set of proposals, a discussion paper, a document that is intended to provoke discussion, thought, analysis, response, that invites everyone in the province to examine its proposals, to make recommendations as to how those proposals might be more fully put into final form and to discuss whether those proposals in general

have merit or lack merit. That was the job that was given to this committee.

This committee has visited many towns and many communities across the province. I have been pleased to participate in much of that process, visiting many of the communities across this province, listening to people in many communities as they've commented on the government's proposals. I think the job of this committee now is to pull together the submissions we have received over the course of that process and come up with a report based on the judgement and analysis and best thinking of the members of this committee and the information we have received in the course of the process of this committee, that process being to analyse the white paper and the submissions that have been made in front of this committee over the course of the last three weeks.

The Chairman has been punctilious in restricting each deputant before this committee to the allotted time to make their presentation. No one has been allowed to run overtime by as much as a minute. Everyone who wanted to speak to this committee was kept to the same strict rules. Each of us who wanted to speak during the course of the last three weeks has been restricted to the same strict time limits. I've been restricted to those time limits, and at times it's been frustrating to me. At times, I've had more questions I wanted to ask, more comments I wanted to make, but the Chairman has been very fair in handling all deputants with an even hand and ensuring that everyone gets a fair chance to put their position forward and to give the record a chance to reflect the submissions of everyone who appeared before us.

It is now suggested that the interim results from a study that has nothing to do with the processes of this committee be tabled before this committee so that this committee can use this interim information "to formulate the committee's final report." I question what the attitude of this committee would be if the minister walked in the door now and said, "By the way, ladies and gentlemen, I have this big, fat report here — well, it's actually not a complete report; it's an interim report — and I insist that you bear its interim conclusions in mind as you prepare your report." I don't think we would take very kindly to that attitude on the part of the minister if the minister were to do such a thing. I certainly wouldn't. I would not welcome a late submission from the minister, least of all an interim report, to be laid before us for us to consider while we are in the process of considering our report, after going through the rigorous process of meeting with people across the province in a very disciplined and fair manner.

For that reason, I question on grounds of process and grounds of substance whether it is appropriate that we call for the presentation of these interim results as part of our process of formulating our final report.

**1500**

Let's just think for a moment how government works in this province. Government works in this province by the executive branch proposing and executing legislation according to the ultimate approval of the Legislature. When the opposition doesn't like legislation that the government puts forward, and as oppositions will, they pick holes in it and find fault with it and indicate their



disapproval of it, from time to time government members are inclined to say something as wild and irrational as, "If you don't like what the government is putting forward, what good ideas do you have?" The typical response we receive from the opposition in cases like that is: "Oh, it's not our job to propose legislation. The government proposes; the opposition disposes." Translation: "Don't look to us to come up with any good ideas; just count on us to find fault with anything you, the government, bring forward."

It is the responsibility of the government ultimately to formulate legislation and put it before the Legislature. The Legislature will ultimately determine whether it passes or fails, and in due course the people, in the next general election, will decide whether they are pleased with the performance of the government.

The government, recognizing that heavy responsibility, embarks on a process that involves more than one element in order to help develop policy and bring it before the Legislature. In this case, part of that process has been to develop the discussion paper that the minister put before the entire province and to seek the response of people from across the province. I did my best to see to it that that discussion paper received the widest possible circulation in my own riding. I would expect that my friends opposite have done similar in their ridings as well.

This committee was charged with the responsibility of travelling the province and seeking submissions from people across the province in response to that discussion paper. I submit that it's the responsibility of this committee now to pull that material together and prepare a report based on that material.

But the government isn't restricted simply to what this committee puts forward in formulating its ultimate legislation, if there is to be legislation. The minister has undertaken other initiatives as well to determine how to formulate whatever policy is to be put forward and whatever legislation is to be brought forward. I know for a fact that the minister has met with tenant activists in my own riding. Tenant leaders in my own riding have met with the minister and discussed their thoughts directly with him. He's received that input directly.

The minister has obviously commissioned other reports, and those reports will ultimately come to him. Who knows what other advice will come to the minister in one form or another? It will all take a role and play a part in assisting the minister in developing whatever legislation the minister will ultimately choose to bring forward in this area.

We are told that the report that is under discussion right now will eventually be made available. It's not as though this is a secret document and it's the job of this committee to bring it out into the open; it is the job of this committee to form a report based on the evidence this committee has pulled together over the last three weeks.

I question whether it's useful for this committee to call upon every other piece of information that has come to the minister's attention to be made evidence before this committee so that this committee can use it to form this

committee's final report. That's not the job of this committee and that's not the job of those reports.

The minister will be receiving, as I say, advice from many sources and has done so over a long period of time. Is it the recommendation of my friends opposite that all of that information be brought before this committee as evidence also, that this committee cannot possibly discharge its obligations until everything that has been and will be submitted to the minister is also submitted to this committee? Are we going to put a halt to the functions of this committee until everything that's in the minister's files is brought before this committee?

I would propose that that is not what this committee is about and I would propose that that is not the job that lies before us in formulating the report of this committee on the basis of the inquiries we have just concluded.

For all of those reasons — and as I say, it can be broken down into reasons of process and reasons of substance — I question the wisdom of this motion and I find nothing of merit to support it. For those reasons, I as an individual member will be voting against this motion.

**The Chair:** Mr Curling?

**Mr Curling:** I think he's before me.

**The Chair:** Mr Sergio — Mr Marchese?

**Mr Sergio:** Are you still confusing us?

**The Chair:** I've not got your name on this list, sir.

**Mr Sergio:** Marchese is not Sergio. Okay, you've got me after him?

**The Chair:** No, I don't have your name down at all. You never indicated to me that you wanted a chance to speak. Did you indicate it to Mr Maves?

**Mr Marchese:** All right, put him on the list. My God, Mr Carroll.

**Mr Sergio:** It's no problem.

**Mr Marchese:** I don't want to misconstrue what Mr Parker said at all. If I do, please let me know. But I disagree completely on the grounds of process and substance with what Mr Parker has said. Using his own words, I will argue that the motion is indeed relevant and important to the work of this committee.

When he argues that this motion has nothing to do with the process of this committee, I believe he's wrong. This study that the minister has done or commissioned, although outside of this committee process, is very relevant to what we're doing. Because we are meeting and have met with a number of deputations and the minister has done this on his own doesn't mean that what he's doing on his own is not particularly relevant.

Do I want to know every discussion he's had with every tenant that he's met? No, that's not really of interest to me, but the study is. I think you would understand that that study relates very much to the concerns deputants have brought forth to this committee, more so than any other individual discussion he might have had either with landlords or some tenants. I'm sure you wouldn't disagree with that.

So although this is outside of our process, it's very much part of the process. When you argue, "Don't we have enough information to be able to do this on our own?" yes, I suspect we do, but we will arrive at different conclusions, obviously. You might not, but I know the rest of your committee members will. Because if we



listen to what the deputations have said, by and large in all these deputations here, the tenants and all the other groups that support tenants disagree with the direction of this report. So if we listen to them, you should be dismissing some of your major proposals in the report. But I suspect you won't do that.

So you're quite right: We have plenty of information to do this on our own, but I'm not sure we're going to be listening to those deputations. That's my worry. That's why I argue, because I know that you're going to forge ahead, as Mr Hardeman said, with this proposal, that we need this impact study, because that will either confirm for us that we're on the right track or confirm for you that we're on the wrong track. Either way, you have nothing to fear. You should have nothing to fear in terms of wanting to read what's contained in that document.

I'm not certain why some of you are opposed to this document. To argue in terms of process, I think it's quite in keeping. In terms of substance, it's very relevant to what the deputants have said. So on both of those grounds I think we are on the right track in this regard. I didn't want to prolong this discussion, but when I hear those arguments, I think they're moving in the wrong direction, quite frankly.

This discussion has nothing to do with the Chair in terms of being punctilious or fair. He's been a very fair Chair. It has nothing to do with him. So I'm not sure why that discussion came into your comments.

You made a few other remarks. I'm looking through my notes here just to see how we can fit this in: the fact that you said the minister is getting advice from many different sources. Yes, but I've argued this document is different and it's critical, so we should have it. If you say, for example, as you argue, that the way it's worded is somewhat problematic in terms of using the interim report to make a final report and then wanting a final report to complete the work, that can be reworded. That's not the issue. We can get the interim report so we can see what is contained in there and use that for our final report when we get to it. But it doesn't preclude the fact that we would like to see the final report before we make a final report. So we could say, "I would like to move that the stated interim results from this consultant's study be tabled immediately," period, and get rid of the other paragraph, and then continue to request that they table the final report for our own final report. It's a matter of wording; it's not a big problem.

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But I really don't think you can argue that this study is irrelevant both in terms of process and substance. I don't think you can. I think you should not be frightened to be able to use that report one way or the other. If it disproves some of your own thoughts, then so be it. I would think you would want some fairness in this discussion. If it corroborates some of the points that some of the tenants have made, then it corroborates some of the points that some of them have made and you've got to deal with it.

But I'm not understanding why you're opposed to it. I think it looks awfully bad on your part to object to us looking at that report. It looks bad, in my view. If you've commissioned a report, we should all see it and you

would want to see it. If you don't want us to see it, it's a problem. But remember, eventually we'll get hold of this report one way or the other, and so we'll have to argue retroactively that the report might have confirmed things the tenants said. I don't think you want that. I think it looks awfully bad on you to keep that information from yourselves and from us.

So I'm going to wait to see, once you've defeated this motion, because I know you will — that's what governments do all the time. It's sad, but we've all done it. The Liberals have done it, we've done it, you do it; nothing different. It's not as if you're about to get into, Mr Parker, something that we haven't done. We all do it and it's a sad state of affairs in terms of how we've done it.

But if you really wanted a different reaction from the opposition, you would not have introduced something that is terribly conflicting with our views. Once you decontrol, you've basically taken us out of the discussion. We can't be collaborative, because that's fundamental to what I believe in. So if you say, "I'm sorry, that's what we believe in," and then expect me as an opposition member to come up with good ideas about that, you've come with the wrong process.

If you wanted me to participate differently, then I would recommend that you get rid of decontrol. If you do that, if you get rid of some of those critical elements, we can have a discussion. I think some of the tenant groups would be very willing to discuss some other ideas with you. But if you keep that in, we have no more discussion, because you'll have us very much diametrically opposed to that.

So it's not because we the opposition, that I personally, enjoy being in opposition just for the sake of it and we oppose your governing, because there have been many times when I was in government when I was quite interested in the views of the opposition, and oftentimes I've argued with our own policy people who usually sit in the room what's wrong with a particular statement that somebody else has made or proposals somebody else has made. Unfortunately, governments get into a situation, as you will, where you won't challenge your own piece of information or law or bill. It's a sad reality. That's what happens.

In the format in which you've presented it, you leave me no other option but to fight the basic fundamentals of this proposal. There are a lot of other things in between in this other report that I could discuss with you and I'm sure tenants would love to discuss with you. But if you keep some of those elements in, we've got a problem. After this motion is defeated, I want to know from some of you, if you're willing to talk about it, what your own position is on decontrol, on the Rental Housing Protection Act, on taxes and whether or not, if we're able to win some tax changes, some of those things that come as a benefit will be returned to the tenants. I want to know what you think about that, because that will give me a good sense of what I'm up with.

But in terms of this particular motion, it's a fair one. It's truly, genuinely a fair thing to say your minister has information, you want to see it, we want to see it, and use that information as the basis for arguments that we can make and that you can make one way or the other.



**The Chair:** I have Mr Maves, followed by Mr Kennedy, Mr Sergio and Mr Hardeman. Hopefully that will —

**Mr Curling:** You took my name out?

**The Chair:** You said you didn't want it.

**Mr Curling:** I didn't say that. I just said that he had indicated —

**The Chair:** So you want your name on the list? Okay.

**Mr Bart Maves (Niagara Falls):** I'll try to be a little briefer than previous speakers, albeit not that brief. I agree with Mr Parker in many respects on this issue. We were asked to go out with this discussion paper, to travel the province of Ontario and hear what people had to say about it and report back on what we heard on that paper. We weren't asked to go out and come up with a new housing policy for the Minister of Housing. We were asked to go and listen to folks and see what they had to say about that paper and report back.

There are any number of reports which we could go out and look for and demand and bring in here and read and take months upon months to sift through if we were charged with developing a housing policy. But we're not. We could have brought in the Russell Canadian Property Index, which was thrown several times in front of the committee and used and misused and so on.

There are Ontario government-generated studies that we've heard about during this session: The Impact of Rent Review on Rental Housing in Ontario, 1982; Survey of Financial Performance of Landlords; Financial Trends and Other Characteristics of Ontario's Residential Rent Stock, 1989. These are reports that folks opposite kept debating whether or not landlords were making a profit during this whole process. We could demand that those papers come forward too, but that would be if we were here to develop a housing policy. We're not; we're here to have discussions on this paper, to have hearings and to listen, as Mr Parker said, to what people around the province had to say about the initiatives in that paper.

**Mr Marchese:** They are opposed to it.

**Mr Maves:** There are other things that we've talked about: the study of intensification and rental housing conservation, 1983; Conservation of Ontario's High-rise Rental Stock, Clayton Research, 1984. I could go on. George Fallis, economics, York University, July 1981, a study for the Ontario Economic Council recommending gradual removal of rent controls. Mr Marchese isn't asking for that study. A 1982 study for the Ontario Economic Council by economist Richard Arnott advocated a gradual five-year phasing out of rent review. No desire to see that one.

**Mr Marchese:** Bring them forward.

**Mr Maves:** There's Larry Smith of the University of Toronto, the same thing: rent review in Ontario contributed substantially to the reduction in new rental housing starts and by keeping rents low increased demand for rental housing and thereby contributed to the rental housing shortage. No desire to see that.

There are other experiences that people have talked about in other countries: in Britain, in Sweden. There are experiences that have occurred in New York and all around the world where we could be saying: "Let's bring

forward all this information, all these different case studies. We've got to see them."

If we were here to put together an entire housing policy for the minister, then maybe I too would say, "Yes, bring all that stuff in." It's readily available. It could have been had by members opposite throughout this process by going to the library, asking their staff to get it, but it was never deemed necessary up until today and they decided there was one specific thing that they had to have.

I want to conclude just by saying and reiterating that we were asked to ask the people what they thought about this document, and that's what we've done. We've gone out and we've listened and now it's time for us to report back to everybody about what we've heard. We weren't asked to do our own housing policy. We were asked to comment on what we heard from the people of Ontario about this paper, and we'll do that. So I'll be voting against this motion.

**Mr Kennedy:** I have to return to this issue because it's awfully apparent that the members opposite have a chronic fear of the facts.

The mandate we were given from the House said that we were to review and report on the matter of rent control, to go out and listen to people, but at our own judgement to use whatever means we could to put that back in front of the minister.

What we've heard are rationalizations on top of rationalizations from the other side of the House why they're afraid of these facts. It has sharpened my appetite to have these facts brought before us, and each of these members opposite speaking in opposition must respond to their own constituents why they're not interested in what they say is not germane.

I have to commend Mr Maves for listing many of the studies we've already read that a previous Conservative government thought fit to prepare in advance of changes to rent review and rent control legislation.

1520

The question put by Mr Marchese was, can the government table any studies that show the impact on tenants of the proposed changes, the exact changes, contained in the document waved in the air by Mr Maves, from the Niagara Falls riding? That is exactly germane, not, as Mr Parker opposite would have us believe, vague, not relevant, incidentally beneficial, but directly germane to the job we have here today, and it is negligent of the members opposite or it is deliberate of the members opposite to hide from us these results.

To turn to the people in your riding, who are depending on us to do the best job possible in what is admittedly a difficult situation, and to have only those thin, in the case of Mr Maves, 12-year-old rationalizations on why we wouldn't want to see the most recent, the most up-to-date information being prepared with government funds, admitted to in a response from this ministry — you're saying we can't have it, and you're saying we can't have it for no good reason. Because we don't have the time, because we're not interested, because we don't want the best result possible, because some of Mr Parker's constituents have been able to get in and see the minister.



This committee has an obligation, and that obligation was set out in the charge from the House: to review this document, to review rent control. This information is directly germane to this. We have had the information, with the assistance of Mr Curling, a huge pile of data put forward — an opinion, I should say, put forward by Mr Lampert, based on data provided by landlords. We are looking for some data that shows the impact on tenants. We would hope for that data to be objective, to help us resolve some of the conflicts we've heard over the past three weeks, to try and live up to our responsibilities to give good recommendations to this minister.

This concern, which we hoped was a goodwill resolution arising from Mr Curling, I think we now have to regard as a matter of fairly serious concern which could be resolved immediately. This need not hold us up. Let someone from the government side say that these interim results will be available and we will proceed with the report.

Why would this government not want us to see something that addresses precisely, exactly the matter we've been charged to look into? That's the question, and we haven't heard the answer.

**Mr Sergio:** This begs more questions. I truly believe that you people, the government, want to produce a document about which the government can truly say, "This is what we said it would deliver, changes that would be better for tenants, for taxpayers and for the landlords."

You have heard the people throughout the last three weeks. The majority of tenants, even developers, even landlords, said, "This legislation does absolutely nothing for any of us." I am sure you want to hear and see everything so you could produce at the end truly a document that is going to be better than what we have now.

With all due respect, the aim of the minister and of the government is to produce something better. This is what he keeps on saying, time after time, even in his presentation here on August 19. Even our staff has said that there are many things within the TPP, as it is called, or tenants' protection package, that we haven't heard from many tenants, things that have not been addressed.

Mr Lampert has said he's a big supporter of shelter allowance, but there is nothing in this particular TPP. I wonder if the new study, for example, would show that the minister should be leaning towards something like that. If so, this committee would like to know and we would like to make some recommendations at the appropriate time with respect to that. What would be wrong with that?

When the recommendations of a study paid for by taxpayers, commissioned by your own government, cannot be seen — and if one particular recommendation were to be that yes, with eliminating rent control we propose a type of shelter allowance, I think we should be welcoming that idea, the opportunity to say, "Fine, we go along with that, and also we go along with that."

On more than one occasion both members, Mr Maves and Mr Parker, have mentioned, as to the discussion of this white paper, that it's only a discussion of the paper. We have direct direction, not only from the minister

himself but from the House, from the Legislature, and the direction this committee has says, "Whereas the standing committee on general government was instructed by the Legislature to review and report on the matter of rent control." It's not just for discussion; it is to report on the matter of rent control, to make changes. We're not going through this exercise — and the parliamentary assistant has said, "We are going to go ahead with it."

Are you guys saying to us, to the people, that what we did in the last three weeks was a joke? Are you telling us this was a joke? You call this a discussion paper, a white document? I don't think so. I think you people have more common sense than that, I think you people are more serious than that, and if that is the case, let's do it properly. We have direction from the Legislature to review and report on the matter of rent control as set out in the Ministry of Municipal Affairs and Housing consultation paper, and whereas the Minister of Municipal Affairs and Housing instructed this committee to provide positive input into development of the rent control package, I'm wondering, when did we turn this direction both from the minister himself and the Legislature into simply a discussion paper?

If this is not sufficient, let me refresh the members with the directions from the minister's quotes, contained in the presentation to this committee on August 19. He says, "Our government is committed to the democratic process and in particular to the exercise of democracy at the grass-roots level." Who the heck is it at the grass-roots level? We? I don't think so. I think we heard the people at the grass-roots level for the last three weeks. Are we saying now that we heard from the people at the grass-roots level and we are turning our backs on those people? Is this what we are saying? I differ quite strenuously from the comments by Mr Parker that if the minister were to walk in today he would be saying to us, "What are you planning to do?"

Mr Chairman, do you know what he would be saying? That he gave us certain directions to go by. He has a lot of tenants in his area, and I believe him to be trustworthy and very serious when he says he wants to do the best for the tenants, I really do, not circumventing the democratic process, absolutely not. We find the same quotes from the minister through page 6, page 7, page 9, page 10, page 12 and even the conclusion on page 22, where he keeps repeating himself that the only reason he has put this document forward is to provide a better system, more protection, for the tenants in Ontario.

Mr Chairman, I don't see any problem in supporting the motion as it is on the floor. I will have more to say, but for now, I will end up here.

**The Chair:** Thank you, Mr Sergio. On the list I have Mr Curling, Mr Marchese and Mr Hardeman. I'd like to respectfully suggest that we've pretty well heard most of the arguments, and if we could call for a vote at the end of those three speakers, we could get on with the rest of it.

**Mr Curling:** I want to inform the government that it's you who control the agenda, it's you who want to put this thing through in a hurry. When I asked for the interim report to be put forward — you say that's all you have at the moment, but the last part of my motion is saying that



when the final report is ready, we have it presented to us so we can deal with a complete report for that input. When you talk about substance, it's the substance we're getting in dribbles. I want to deal with it in that form, and it's relevant to what we do.

Mr Parker, I just want to say it's a friendly motion to have all the information available to deal with a complete, final, good direction to the legislative researcher to do our report. Thank you.

**Mr Parker:** I never doubted that everything you do is friendly.

1530

**Mr Marchese:** I don't know what Mr Maves was really getting at — I wish he'd spoken to the motion — when he said we're not asked to do our own housing policy. All of this is directly related to housing and it will create legal housing policy for people to abide by eventually. I'm not sure what he was getting at with all these other reports he mentioned. If he wants to bring forth these other reports, let him do so. He doesn't even need a motion. He can get hold of all those reports, table them, give them to us, and we can read them.

What he didn't address is specifically this motion, and this motion speaks about the impact studies your minister has done; he commissioned an impact study. He didn't speak to that. He rambled on about everything else except that. If the minister felt it was important enough for him to commission the study, it should be important for this committee to see it. That's really the issue we're talking about, not everything else that he talked about.

I'm not sure why you're entirely frightened about doing this, but I know you are. It does you a disservice not to want to see what's in that report. That impact study connects directly to the proposals in this report. It speaks to this. He's obviously worried that there is going to be an impact on tenants and he wants to know. I want to know. You want to know.

Hopefully Mr Hardeman will also speak to this motion, to this impact study, the connection of this study to this proposal, not all the other reports Bart Maves spoke about and all that other stuff. Hopefully the parliamentary assistant will see that there's a connection between this study that the minister has commissioned and our work and that it would be useful for us all to see it. That's really all we're talking about. I await Mr Hardeman's views on this matter.

**The Chair:** Mr Hardeman, do you want the last word on this issue?

**Mr Hardeman:** Thank you, Mr Chair, but we're never sure it's the last word.

**Mr Curling:** Don't provoke us.

**Mr Hardeman:** First of all, I want to correct a couple of statements made by Mr Marchese and by Mr Curling that I said we were going to move ahead with this draft document or discussion paper regardless, that the principles outlined in the document were cut and dried and that the government was going to implement it regardless of what it heard from the public or from the committee.

I want to assure you that it is a draft discussion document. My reference to moving ahead is that we heard during the consultation, both from the tenant community and from the landlord community, that the

present system is not working, and the government will be moving ahead in trying to correct that situation.

We will be taking into consideration the information that was presented to the minister from some 60 different groups we held consultation with during the process of preparing that draft document. We then put it out to public consultation through this committee and heard from many, many groups, representing both the tenant community and the landlord community. I think it's fair to suggest that we heard different views from different directions, but we are looking to take all those into consideration as we prepare the direction that the government should go. I want to make sure it's on the record that the government is not — what did you call it, Mr Curling? Bulldozing ahead? Ramming ahead, I think, was the term you used.

We are going through a consultative process to try and come up with tenant protection and to deal with both the cost of housing and the quality of housing in Ontario, particularly in the low vacancy areas, and we think this is the appropriate process to do that.

Having said that, I think it's important to point out, as was mentioned by members of the government side, that the committee's work was to hear what the public had to say about this process. I suggest that maybe we want more and more consultants' reports so we can try as a committee to pit the consultant against the people who are actually involved with the situation, pit one against the other and see whether this committee can come up with a process in between the two that will suit some people, for political purposes, better than other measures.

I think our job as a committee is to bring forward the consultation process and what we heard from all people involved as to what they see as the problem and what they see as the solutions, most particularly what, if implemented, they would see as more or fewer problems created by the discussion paper.

I also want to deal quickly with the issue Mr Curling brought up in his presentation, that everything went so quickly, everybody only had 20 minutes to make their presentation, that there wasn't time for Mr Curling to ask questions and everyone he spoke to after the meeting wished they had had more time so they could have made further presentation. I want to point out that 20 minutes was the time allotted by the representatives from all three parties as the most appropriate way to go through this hearing process.

There were options put forward. My understanding is that there were options put forward to go to half an hour, 20 minutes or longer. It was agreed by all three parties that it would be a 20-minute presentation for everyone who wanted to appear before the committee, and generally I believe it worked fairly well. There were very few people in the process who were restricted from having their say.

Having sat through almost all the hearings, I would be the first to admit that there were times that some of the members of the committee were cut short on some of the long direction they would have liked to provide to the deputants, but again I'd point out that the reason for the hearings was not for the opposition or the government to tell the people making the presentations all their views.



It was to hear the views of the public, and I think the committee has done that in an appropriate manner.

The other item I wanted to talk to for a moment is the Lampert report. There have been two or three references made to how difficult it was to get the Lampert report. It becomes difficult if we bring it up at the meeting and say, "I haven't got a copy of the Lampert report, so it must be difficult to receive." My understanding is that the Lampert report has been a public document for some time and it was a matter of getting it copied as opposed to it being available. I think it's been in circulation for a considerable length of time.

Also, as has been mentioned a number of times, it was commissioned, not to set up a housing policy for the government or to make recommendations on the total housing policy; the direction for Mr Lampert when the report was commissioned was to come up with recommendations on what it would take for the private sector to build rental accommodations. He did recommend other items besides changing the rent control regime, and obviously the government will be and is already looking at a number of those issues to try and improve the affordability of housing and the quality of housing. But I just wanted to make sure it was on the record as to why the Lampert report was prepared and what its recommendations were based on.

Going back to the motion we're speaking to — and maybe this was the long way around to speak to the motion — it is to try to bring more information into play so the committee members, I suppose, can come up with housing strategies that are separate from the discussion paper, which is supposed to be to outline to the minister what the public and the building community feel is appropriate to deal with the items mentioned in this discussion paper.

Obviously, it is true that the presenters have made comments about the impacts they feel it will have on their particular sector of that rental market. The tenant community has more concerns that it will impact on rent than the landlord community seems to have. The landlord community seems to think it needs to go further. I'm not sure that a consultant's report, one way or the other, would make a great difference in your opinion, in whether you believe that the impact suggested by tenants is the appropriate one or the impact suggested by the landlords is the appropriate one.

1540

In answer to the question Mr Curling asked about whether I have read it, the answer is no, the reason being that the report mentioned in the questionnaire that was sent out is, as is mentioned, an interim report. The consultant has reported and is preparing the final report. I'm sure when it is available it will be read from cover to cover, and the direction and the implications in that I'm sure will be taken into consideration as the minister deals with the housing policies in the province as opposed to just the draft document we're dealing with.

Though we have been given the task of hearing what the public has to say on the discussion paper and reporting back to the minister, it's important to recognize that the minister is responsible for a complete housing policy in the province and he does have the obligation to find

out all the information and all the impacts the policy direction may have before he authorizes the final preparation and the implementation of such policies.

I think everyone on the committee would agree that it's appropriate for the minister to know those impacts before he implement policy, so it would be very important that these studies are done. I don't think anyone would disagree with that.

Finally, I just want to point out that I don't believe this committee would require the documents in order to make rational decisions and direction on what you have heard.

With that, I think we will carry on. We thank you, and I would answer any other criticism you may have, but we will not be supporting the resolution as it's written. We do not believe there is a need to slow down or to have the discussions of this committee stop while we're waiting for further documents to be prepared. We think we should proceed with the deliberations on the committee report and report back the minister as we were instructed to do.

**The Chair:** Thank you, Mr Hardeman.

**Mr Marchese:** I want to get on the list.

**The Chair:** Mr Marchese, you want us to break the little agreement we made?

**Mr Marchese:** Yes.

**The Chair:** Okay. Go ahead, Mr Marchese.

**Mr Marchese:** If the government doesn't speak, it's probably easier; then we could end these things a lot faster. But each time they speak, it provokes me. It's really very difficult to be collaborative. When you hear a number of arguments that make no sense, it forces you to respond. I'm almost tempted to say, "Don't respond, move on to the next point so we can get on with it," but when you hear some of these arguments, it boggles the intelligent mind.

When he argues that the minister has an obligation to know the impacts and isn't that appropriate for the minister, what kind of reasoning is that, Mr Hardeman? If it's appropriate for the minister to know, it's appropriate for the committee to know, because we're studying this issue. How can you make that argument and make it appear like somehow we're fools not to understand what you're saying?

If it's important for the minister to know and it's his obligation to know what the impact of his proposals is on the public, it's important for us as well to know the impact. You can't make those statements and not have people like me respond. Then you say, "We don't need that document to decide on what we heard." We've argued that we do. The tenants and those who have come to talk about protections tenants need are worried about the impact of decontrolling, worried about the impact your increases will have on capital expenditures, including the cost pass-through of taxes and other utilities. They're worried, and you argue that we don't need that study because it doesn't impact on what we heard. It makes no sense. That's why I get upset.

If you said nothing, we'd move on; I'd be ready for the next issue. But when you make the strange points that if we've got points about housing strategies to deal with this paper, that's all right, but the impact study is not needed, that too makes no sense. Either don't say any-



thing or, if you do, expect me to disagree with an agreement we would have had that we move on.

Mr Hardeman says, "Let's proceed." I'd like to proceed. I really want to get to the next point because I want to hear a number of you speak to decontrolling, speak to the rental housing protection, speak to whether, if you do make tax changes, the tenants will have a benefit. I want to hear from you so I know where you stand, and based on that, I will have a sense of what the next step is.

But in terms of this particular motion, it's hard for me to collaborate when you make arguments that are not intelligent. Mr Parker attempted that by speaking about process and substance. I disagreed with him on issues of process and substance, but at least it's an interesting argument to make. But these other points, like Mr Maves's, that we haven't requested all these other reports — if he wants to bring them, bring them. Don't confuse those reports with this request that talks about impact studies. They're two different things.

I just wanted to disagree with Mr Hardeman. Maybe he'll speak and then I'll get on the list again; that's fine. But in terms of the argument, they're poor arguments, very poor. If the minister needs those studies, we need them too. There's no such thing that the minister needs the impact study on his own because he's the minister, but we in the committee, having reviewed this for three weeks, don't need it because we've got to discuss other things we heard. It makes no sense.

I hope we temper some of those arguments so we can move on to the next issue, Mr Chair.

**Mr Hardeman:** In answer to the comments from Mr Marchese, I just wanted to point out the need for this committee — we were instructed and authorized to report back to the minister on what we heard from the public. As you mentioned, the tenants have concern about certain parts of the bill. I think it's this committee's responsibility to report those concerns to the minister, what was told to us, what their position was. I don't believe it serves the process or the public to have us, through other means, change what we heard so we can tell the minister, "That's what the landlords said, but we have studies that show otherwise, so you shouldn't pay any attention." I think we should report back to the minister what we heard from the different people who made presentations.

I'm sure that unanimous decisions on interpreting what we heard are going to be difficult to achieve, but I think everyone would agree to what we heard. The report that was prepared for us and presented to us this morning by legislative research I think is a good start as to the type of thing we should be reporting back to the minister on.

**The Chair:** A final word to Mr Curling.

**Mr Curling:** Mr Hardeman, I have to disagree with you when you say that we were instructed by the minister to just listen and report. I have never seen that in any instructions to me. If you have that instruction, make that available to me, where the minister states, "Listen and report." I never heard that. I wasn't directed that way. With my role as critic for my party and as the opposition, I don't see him giving me instruction in that regard. If that was so, I wouldn't have been sitting here anyhow. That's one.

The next point is that you allowed Mr Lampert to come before us. He's not a tenant. He's not a landlord. So when you say that we're only to listen to that and report, why did Mr Lampert come before us? We found it relevant, pertinent that he comes before us. I couldn't decipher the difference between the Lampert report and the New Directions report, so he came before us. Now we have impact studies being done where the minister is huddled in some area, having some interim report studies presented to him, ready, and they said others are coming, then you're saying to us: "Listen, it doesn't matter what they tell the minister. It doesn't matter what the impact is. We all see it."

1550

You've instructed your members by your tone in saying to them, "We will not support that." I haven't heard a peep out of any of them over there. Some of them are so silent I'm wondering what position, what individual thinking you have personally about this procedure. You sit there but you've had your instructions. I expect better from my colleagues across from the government, to think independently, to say, "Yes, this is informed information that I have and we will ask for this information to come forward to direct and instruct the minister."

All through the hearings they were saying it's not a partisan issue and this matter must be resolved, and now I'm getting that you have been whipped into certain words and certain directions to go and I haven't heard a peep. If you have not been, let's hear from you. Let's hear you saying, "I personally think this way" — or do you think? I'm sure you do; of course you do. Let us hear from you. Mr Hardeman's trying to say, "We will not vote for that," tells me you have been instructed as trained seals to go one way. That is very unfortunate because there's no way of input where I can be as objective towards this kind of legislation.

You will believe that we're asking for something that is private, paid for by the minister or privately paid for by the Conservative Party. This is taxpayers' money that you used to pay this consultant to tell you what direction to go, what impact it has on tenants and the impact it has on rent control. But no, you're going to keep it close to your chest and say, "It doesn't matter." That's what I heard Mr Hardeman say: "It doesn't matter. We're going to move ahead anyhow, and those are the instructions we get, to listen."

To lecture me that you came about and spoke to these tenants and tell them what to do and the Chairman had to cut us off — yes, we shared some of that experience and we shared with other tenants and landlords what we were hearing. That's the way of consultation. We weren't trained seals saying, like Mr Maves said: "These are all the reports. Why didn't you call up those reports?" We could have, and I'm glad he did his research. Bring those too. Bring those reports up and let us put input into this direction. Don't tell me directly that it's not relevant. It is relevant, and I hope that your independent thinking will tell you to do the right thing.

**Mr Kennedy:** Mr Chair, it really is almost a point of order. Far be it from me to suggest that the parliamentary assistant would deserve correction in any of his com-



ments, but on the one that pertains to the purpose, why we're here: We're not here just to listen. We're here to think; we're here to make input.

If the parliamentary assistant needs authority to think, then he should reference the words of his House leader and Deputy Premier when he moved "that the standing committee on general government review and report on the matter of rent control, as set out in the Ministry of Municipal Affairs and Housing consultation paper to be filed with the clerk of the committee." It didn't say "listen" and it didn't say "don't think" and it didn't say to be quiet when we're faced with a proposition here to have the facts we need to make that report.

I think it's incumbent on and behooves the members opposite to show us that we are a committee of the House, not simply a committee of the government. This is us trying to look into the public interest. We can get on with that if you would let us have the facts, because you can be sure it won't stop here in terms of saying that those facts this ministry has in some kind of form now, the only data, hopefully objective data — we've heard them being referenced, and it's convenient for this government to say that everything is in conflict. We would like to see the facts because we would like to get at resolving these matters. It's this government's consistent and persistent effort to always portray these things as being in conflict.

There are data relevant to this that have been acknowledged by the ministry, they're new data, they're not 14 years old and they're exactly what we're being asked to do: "What is the impact of these proposed reforms on tenants?" There are hundreds of thousands of tenants in this province who want to know that when we send our recommendations and report to the minister, we've had access to that information. This government apparently, because we heard the instruction issued by Mr Hardeman, wants to hide these facts. They want to hide the facts and none of your constituents can have access to those facts because there's this reluctance on your part.

All you need to do is support this resolution and support the mandate of this committee to do more than just listen and perform the functions of a tape recorder. We have a job to do here and we need these facts to do it. I think the argument has been put very persuasively by people on this side of the House. We're quite prepared. We don't know whether those facts support the developing opinions of the opposition party or those of the third party. We just want to see those facts. You're stopping us from having the facts. You're saying no; you're saying we can't have facts that the minister has had.

That's not in any way consistent with this being a committee of the House looking after the public interest, trying to make the best sense of, not just listening to and patting the head of the tenants and even the landlords who have come in, but trying to do our job to interpret what they've said by reference to some facts, consultant-originated or not, that will help us to know and perhaps the only ones in any kind of a new study, a recent study, to tell us what the heck will happen when these fuzzy proposals are put to work.

With some regret I have to take exception to the characterization of the parliamentary assistant of this

committee as one which is only supposed to listen and do nothing itself. I beseech the people opposite to have regard for their role and the role of this committee in supporting this motion. We didn't put it forward in an adversarial way. These data could relate on any basis, but it is germane. There is nothing that can be said to convince us that these are not the exact data we should have in front of us, because this is exactly what we've been asked to do, to just read the motion from June 27 that your House leader put forward which received consent from the House, and you'll find that's exactly what we're supposed to be doing: Review and report on the matter of rent control, not to listen and do nothing about rent control or the proposals of the ministry.

**Mr Hardeman:** I just want to make a correction. When I speak in the "we" as opposed to "I," for those members who have paid attention in the past, you will notice that I use the "we" almost exclusively as opposed to "I." I apologize for that. It was not to direct others to do as I do; it was a figure of speech. I would be happy to have Hansard change every "we" to "I" if that would help the opposition with their concerns.

The other issue that I think Mr Kennedy makes is that I do support the principle that if the committee carries through with the proposals, as I suggested, to deal with the recommendations or comments we've heard from the deputants and forward that to the minister, I think we have reviewed rent control and I believe we have done what the House leader's resolution suggested.

I want to make sure it's on the record that the discussion was not about the legislation. The rent control legislation has not yet been prepared and it is not before this committee. It will be in the future; it isn't now. This is a discussion paper to assist the minister in that preparation.

As Mr Kennedy was so kind to me, I should be the same to him. I think it's far more important that we heard all the people who made presentations than are the documents, which will, incidentally, become available when they are completed as a final draft document. They will become public documents, and I can assure you that we are looking forward to that in the very near future, and we mean weeks, not months. To suggest that constituents will not be privy to this information, I can assure you that they will be public documents, and not only the members of this committee but all members of the House and members of our society will be privy to that information as it becomes available.

1600

**Mr Curling:** Mr Chair, on a point of clarification: Did I hear Mr Hardeman say that what was presented to us — the committee is prepared to accept the recommendations? I don't know if I heard you right about what legislative research has done. You said they put forward to us some recommendations and some report and you want to accept that. Did I hear that?

**Mr Hardeman:** No.

**Mr Curling:** Okay.

**Mr Marchese:** Mr Chair, on a point of clarification: He said that when the government comes forth with a bill, the studies will be provided at that time. Is that what I heard you say?



**Mr Hardeman:** The study that's being referred to in your resolution will be a public document before the bill is a public document.

**Mr Marchese:** So before the bill, that study —

**Mr Hardeman:** Mr Chairman, just for clarification, at the present time the staff report refers to an interim report. When that report is final it will be released to the public and to this committee if the committee is still sitting.

**Mr Marchese:** When that interim report is available or done, or the final report, then it will be available to all, you said. So are you in essence agreeing with the motion that we have or disagreeing? You're disagreeing with the motion but you're saying it will become available when it is ready.

**Mr Curling:** Or when convenient.

**Mr Hardeman:** When the final report is complete, it will be a public document. As the opposition has been mentioning, it's paid for by the public and it will become a public document.

**Mr Marchese:** I don't want to get on the list. I just —

*Interjections.*

**The Chair:** I'm not sure I completely understand what he said. Mr Sergio, one last comment before we have a vote on this.

**Mr Sergio:** No. I want some clarification because this is important. We are hearing from Mr Hardeman that when the report will be completed it will be made available. I am asking if the minister is wrong when he says "provided the interim results have already been provided." I would like to see these interim results. We will see the final report when it's completed, but in the meantime interim results have been completed. They have been provided. I'd like to know to whom they've been provided and where they are. I'd like to see those interim results.

**Mr Hardeman:** In fairness, it's a staff report. I'm not sure whether the interim report was presented to the minister or to staff.

**Mr Sergio:** Are you saying that it's wrong?

**Mr Hardeman:** No. As it is normal with all studies, the interim reports are provided. The public document is the final report, we are waiting for the final report and it will become a public document when it is completed.

**Mr Sergio:** Okay, but if the interim report has been provided, the results of this interim report have been provided to whom? Who's got them? Who has seen them? Where are they? He is telling us that interim results have been provided already. Where are they? Probably we're going through an exercise in futility. Maybe there's nothing in that report. But for goodness' sake, if an interim report has been provided, where is it? Why can't we see it? Who has it?

I don't want to be a burden on you, Mr Hardeman, but you're the parliamentary assistant; you're the Chair, Mr Carroll. I think it's incumbent upon you to say: "You give us a letter here. You say you have provided interim results from the study. Where are they?" I think you should be providing the committee with those results and I would kindly request that you do so.

**The Chair:** The decision about the provision of those results is not my call. It's up to the parliamentary assist-

ant to the minister. Would you be prepared to make any statement on that, Mr Hardeman?

**Mr Hardeman:** Mr Chairman, I reiterate that an interim report released becomes a final report. I think we have an obligation to the authors of the report and to its authenticity that we wait until the final report is released.

**Mr Sergio:** Maybe you could ask the minister if he is not averse to releasing it.

**The Chair:** If there's no further discussion — we've certainly heard both sides or most sides of that argument — we will now have the vote. Mr Curling has put forward a motion. Mr Marchese has asked for a recorded vote.

### Ayes

Curling, Kennedy, Marchese, Sergio.

### Nays

Danford, Hardeman, Maves, Parker, Ross, Stewart, Wettlaufer.

**The Chair:** The motion is defeated.

Before we get on to the next order of business, we never did talk about the time for stopping our meeting this evening. May I suggest that we consider 5 o'clock?

**Mr Curling:** I thought it says to 4 o'clock.

**The Chair:** I don't think it's specific on a stopping time.

**Mr Wayne Wettlaufer (Kitchener):** Have you got an appointment, Alvin?

**Mr Curling:** No. Actually, I want this committee to be more —

**The Chair:** Okay, wait a minute. Have you some specific reference to 4 o'clock that you could show me? I don't recall seeing one?

**Mr Curling:** This committee is kind of a bit loose to me, Mr Chairman — that's why I asked — in the sense of time.

**The Chair:** Have you got any specific reference to 4 o'clock?

**Mr Curling:** I'd have to look. I don't know why I had the impression that we adjourn at 4. I'd have to look if there was something specific. I thought it was 4 o'clock.

**The Chair:** In the absence of that, what I'm suggesting is, can we agree on 5 o'clock without a tremendous amount of debate? It's now 10 after 4. Can we agree? Is there general agreement on 5 o'clock? Anybody have a problem with 5 o'clock?

**Mr Curling:** I have a problem with 5 o'clock. I don't want to debate it, but I have a problem with 5 o'clock, because I really had thought it was 4 o'clock and I have some commitments. I didn't know that we were going to go on beyond the hour.

**The Chair:** Any other comment?

**Mr Marchese:** What I am really interested, in the next little while we might have, is to listen to what the government members have to propose with respect to this proposal. If we take that hour to do that, I think it would be really very useful for us to get a sense of what our next step is. I'd be very much interested in knowing what the government is interested in proposing as a process.



**Mr Sergio:** What if they don't want to tell us, they just want to have a vote?

**The Chair:** Basically you would like to stay till 5 o'clock. Other than Mr Curling, is there anybody who has a problem with 5 o'clock? This is surely not a big issue.

**Mr Curling:** It's a big issue for me. Whether or not, as you said, that hour is going to be dedicated to just looking at the recommendation, I would disagree with that too. If the hour we stay only deals with the recommendation, that will block us in.

**The Chair:** Basically, our purpose here today was to ask questions of the research staff. We haven't gotten around to that yet.

**Mr Sergio:** Having arrived at this particular hour, I give intention to introduce a motion before, Mr Chairman.

**The Chair:** I'd like to get some agreement on the time we're going to stop first. Do we have general agreement on 5 o'clock as the time we will adjourn?

**Mr Curling:** We'll take a five-minute recess, Mr Chairman.

**The Chair:** Okay, we'll take a five-minute recess and then we'll come back and make a decision on that issue.

*The committee recessed from 1608 to 1613.*

**The Chair:** We are back from our recess. Mr Curling? Okay, general agreement on 5 o'clock.

**Mr Marchese:** What I would like to know is, does the government have a suggested proposal to deal with this report? I'd like to hear that.

**Mr Hardeman:** I don't have a resolution prepared, but we are going to suggest that we deal with legislative research's report as it was presented by Jerry Richmond, have discussions on the issues and put that forward as the recommendation. This is what we've heard, and this is what the people have said. By appending the total research document that came from all the presenters so the minister can go through —

**Mr Marchese:** So you want to table the research report that has been compiled by Ms Campbell as is?

**Mr Hardeman:** I think the reason not to suggest that it would be the report is that this research report does not cover the full breadth of the hearings; the last few days are not on that yet. The report I would be suggesting is the report of the total hearings and the way the researchers put that together.

**Mr Marchese:** I understand. You are not prepared to speak to the whole issue of decontrol, the Rental Housing Protection Act or shelter allowances or what would happen to tax savings — in the event that we had them, would tenants get any of that money back? You're really not prepared to speak to any of these issues, correct?

**Mr Hardeman:** Speaking to them, I suppose we can have debates on each individual issue. Again, the people who made their presentations spoke to those issues, and I think the minister must take into consideration those items that they spoke to and what position the individuals took.

**Mr Marchese:** That to me is very clear. What is clear to me is that the government members want to present this report as is. Based on what I heard, I know that we will want to submit a minority report on what we've heard from the overwhelming majority of deputations. If

this is the way the government wants to proceed, I'm announcing that I will be presenting a minority report, and I presume the opposition party will do as much. If that is the way it's going to go, we don't need the whole hour to deal with that.

**The Chair:** Mr Marchese, according to the rules, the committee would submit a report that would be either a unanimous or majority report. Anybody, be it a caucus or a member, is allowed to present a dissenting opinion to any part of that or whatever that is.

**Mr Marchese:** That's fine.

**Mr Curling:** Let me just comment on this. I can tell you too that I'm disappointed in the direction I'm hearing the government wants to go. The fact is, even if legislative research had presented some paper, there are questions that were asked, and we had hoped that some of the input would have been placed inside of that committee report. It seems to me that the government is saying that it will accept the report as presented by legislative research, I think. It is a good report, but it's not conclusive in many forms. I'm disappointed that this is the direction they're going to go. I anticipated it, of course, because of the interaction I saw over on the other side. There was no input being placed on what they heard and some of the questions that have been raised. I just want to say to you that we are disappointed and we will also be putting in a dissenting voice on this matter.

**The Chair:** Any further comment?

**Mr Sergio:** I gave intent before that I would introduce a motion at a particular time. Since you have no more speakers, I'm willing to introduce it now.

**The Chair:** Just before we do that, Mr Sergio, I wonder, is there any specific need for the format of the report to be covered in a motion? Are you prepared to make a motion, Mr Hardeman?

**Mr Sergio:** Can you hear my motion first? It may be acceptable.

**The Chair:** Okay, go ahead, Mr Sergio.

**Mr Sergio:** Then if you don't like it, you can still vote it down.

**The Chair:** Do we get to talk about it?

**Mr Sergio:** Can I pass a copy around? I'll forgo the first three paragraphs and I'll move to the last two, which are the salient ones. For the information of everybody I'll read them all.

Whereas the standing committee on general government was instructed by the Legislature to "review and report on the matter of rent control, as set out in the Ministry of Municipal Affairs and Housing consultation paper," and;

Whereas the Minister of Municipal Affairs and Housing instructed the committee to provide "positive input into the development of a (rent control) package";

Therefore, the committee will proceed to develop a report to the Legislature that provides clear and comprehensive direction to the minister on the key issues raised in the government's discussion paper *New Directions*.

That is very innocuous.

As the basis for devising such a report, the committee will answer the key questions laid out in the document: Briefing Notes for Draft Tenant Protection Package



Report (TPP), prepared by the legislative research service, dated August 22, 1996.

I think that's very self-explanatory. There's nothing controversial in that. I think that's a good way to move in preparing this report and I'm seeking support.

1620

**The Chair:** Mr Sergio has put forward a motion as to the format of the report. It doesn't seem to exactly tie in with what Mr Hardeman has suggested. It was going to be the government's format of a report, but let's see if we can discuss it. Mr Sergio, we'll let you start.

**Mr Sergio:** We have been provided this morning with the written notes, which are very good. It's a good report and there's a lot in there. To go by this report that has been provided to us this morning so we can have some questions and then base our report on the briefing notes, it's mainly that. It's nothing too complicated. So we're going to have questions of staff based on the written notes.

**Mr Curling:** I'll be very short on this. I think the questions raised by legislative research were quite pertinent and give us some directions in which we should be writing this report. All I think the motion is asking for is not only what people had said, but some of the questions that are to be raised and should be addressed by the committee.

We're asking that when the report comes forward, it addresses those questions that are raised here, making it a bit more complete. We have debated the rest already, where we thought other factors and other documents should be a part of the presentation, which has been voted down. But we feel the questions that have been asked by the legislative research could be quite pertinent to the document and to the report.

**Mr Hardeman:** I do not support the resolution, though it is somewhat similar to the one I was going to propose. I believe the last two paragraphs seem to indicate that we will be able to come up with a direction on all the issues, and I'm not sure that that's possible, first of all, and secondly, I'm not sure it's appropriate to deal with each individual issue.

I think it's more important to relay to the minister and the ministry staff, as they prepare draft legislation and draft direction, the information that we heard, differing viewpoints, and having that analysed as to how other policies and other things they have been working on will relate to what has been said so they can come up with something that will serve the needs of everyone as opposed to being directed that we shall provide a recommendation on each issue. I guess for the sake of time I would be prepared to vote down this motion and introduce mine.

**Mr Kennedy:** I am really, I suppose, running an aggravated risk of being seen to be in any way disrespectful of the parliamentary assistant, because it really is unfortunate that we're not able to find some line of inquiry here that is objective, at least in some relevant sense, to be able to do our job, to be able to proceed as a committee.

We had on August 27 an outline which we went through in some detail this morning around what the objective questions are for committee consideration, not

devised by the Liberals, not devised by the NDP, but put together by the legislative research service, and really setting out for us our job and our consideration as we went through. Now is the time for us to come back and not just pay lip-service to the idea that we heard people but to show them what we've done with their input. If we saw often we can't agree, at least people know what the benefit is of the people who have listened, who have read the Hansards, who have read the reports that have been submitted and who should have by now some acquired opinions on these very questions.

I think it really does behoove the committee to strive for this and it is disconcerting, to say the least, that somehow the idea of us trying — this is where I guess I depart from Mr Hardeman's despairing of us even trying to achieve our mandate as is outlined from the Legislature, in Mr Sergio's motion, and also from the minister when he asked us not for passive input but for positive input into the development of a package.

I have no doubt the members opposite will be somewhat more positive than the members on this side of the House, but it still asks us to make the effort, not simply to act, as I said before, like a tape recorder to what's happened in the proceedings. We have a better and more significant role to play than that. We on this side of the House, certainly speaking at least for my Liberal colleagues, are prepared to engage that. I did not hear anything in the parliamentary assistant's remarks that would say why the government would be afraid of that discussion, when earlier we heard that it was supposed to be discussion and thought and input that we were supposed to put into this.

So we first have a government afraid of the facts, that won't release the studies, won't tell us what the data is, the only data available, and the impact on tenants, wants to hide that, and now doesn't want to discuss the points that research says we should address as a committee. I think that's not only disappointing; that really runs against the grain of why the committee is here in the first place.

I guess from the parliamentary assistant's remarks we're unlikely to have this level of cooperation, this opportunity to proceed on the basis that was outlined to us some time ago, which has been a guideline for evaluating the hearings and really a chance for us to be able to come up with some salient advice, not just nickel and dime sort of reaction in the sense of a few comments at the beginning or at the end but to really take into account all the data, make worthwhile all the expenditure that's taken place in terms of this committee, the research that's been done, and to put that in some kind of form through our discussion and through the deliberation we're prepared to do.

Mr Sergio has given us certainly a direction; I cannot see why the government is frightened of it. I can't see, with its majority here, why it's frightened to have this discussion and to give some meaning to the three weeks that have been spent in hearings. So I certainly will be supporting the motion and I would encourage reconsideration on the government side. There has to be some certain amount of interest shown by this government in the existence of these committees. On what other basis



are we to proceed if these committees don't make some value-added input? This is our chance to make value-added input, and this government wants to make an end run around that.

I think there's a clear way not to do that. We have a program that we can go through within a reasonable period of time, where we can reference, thanks to the other research — I respect the comments that have been made earlier, but really, with great respect, this is not yet a report. This is but a summary of what was said. It's up to us. We cannot abdicate our responsibility as legislators or as committee members to come up with a report. This isn't a report. It wouldn't pass in grade 12, it wouldn't happen in college, it wouldn't happen in university and it shouldn't happen in the Legislature. We should do a report with our own original input and we should answer the questions that have been put. We should use the input we have. We should have had access to the facts, but we should at least go through what Mr Sergio has recommended and have a report at the end of the day.

**Mr Marchese:** What is clear are three things: (1) the government members are refusing to do an analysis of what we heard; (2) the government members are unwilling to take a position; (3) the government members are abrogating their responsibility, in fact, to give direction, because simply to give this report to the minister is giving no direction of what we heard.

Those are my comments with respect to this. I'm quite happy to support this motion and deal with Mr Hardeman's motion when it comes in a few seconds.

**Mr Sergio:** I wasn't here when Mr Hardeman's motion was put forth.

**The Chair:** His has not been; there's only one motion on the floor.

1630

**Mr Sergio:** I was brief at the beginning when I introduced my motion because I thought it was very innocuous and it would receive quick approval and passage by the committee here. But if the parliamentary assistant and the committee members on the government side have a problem, let me say this: The notes which have been prepared for us by our staff do not reflect one or the other views. They've been saying them. They are not my views. It's a collection of what the people have said during the last three weeks.

We have to base our recommendation and put it in the form of a report, if you will, based on these digested views that we have heard in the past three weeks. So we can't say now, "Let's approve the report that has been given to us." It's not a report. It's not their views. It's what they have heard, what they have assembled, what they have digested in the past three weeks.

If we, Mr Chairman and Mr Parliamentary Assistant, can't debate and formulate our own conclusions, right or wrong — hopefully the right way so we can make a reasonable report to the minister — then what are we doing here as a committee? What have we done? Staff may have put together their own ideas, the most salient points according to their wisdom, and I have the greatest respect. But now it's up to us to formulate our own views, our own recommendations. I think we should debate some of these points. If you don't want to debate

all of them, don't debate all of them. We can skim over some. But I think it's paramount that we formulate our own concepts in our report. If we can't do that, I'm afraid you're really ramming this through. You have shown then total disrespect for the people we have listened to in the past three weeks and for this committee as well if we can't have that. I'm sorry. I don't want to sound harsh, but this is a reality.

We have certain serious questions here. If we can't even dwell on some of these questions which research staff has provided to us — we have some questions to some of the most important questions. If we can't have any more information on those, I'm afraid really this is a fait accompli and you're going to go ahead and do whatever you want, and we will have the people know that this was not our report if I can't have any input in there.

Unless you want exactly that, Mr Chairman, then move ahead, but I would insist that we follow some process and get some more information through some questions on the package that has been put together for us by our research people.

**The Chair:** Are we ready for the vote on Mr Sergio's motion?

**Mr Marchese:** Recorded vote.

#### Ayes

Curling, Kennedy, Marchese, Sergio.

#### Nays

Danford, Hardeman, Maves, Parker, Ross, Stewart, Wettlaufer.

**The Chair:** Mr Sergio's motion is defeated.

**Mr Hardeman:** I'd like to move a motion.

Whereas the standing committee on general government has been actively consulting on the government's tenant protection discussion paper *New Directions*; and

Whereas the committee was requested to report back to the minister on what was heard during the course of these hearings; and

Whereas varying reports were heard on the different aspects of the tenant protection package; and

Whereas the report which was prepared by legislative research entitled *Briefing Notes for Draft Tenant Protection Package Report* summarizes the views heard;

Be it resolved that the committee report to the Minister of Municipal Affairs and Housing be based on *Briefing Notes for Draft Tenant Protection Package Report*; and

Be it further resolved that the document *Summary of Witness Recommendations: Tenant Protection Package* be attached to the committee report as an appendix.

**The Chair:** Mr Hardeman, did you have an initial comment on the motion while the clerk is passing copies around?

**Mr Hardeman:** It's similar to the motion that was presented by Mr Sergio, I think the most significant difference being that in the motion we do not deal with "the development of a comprehensive direction." There may be areas in the discussion paper that we could do so, but there would be areas that we could not do so. So this resolution is based on the discussion paper being the



basis of the report, and that we would be prepared to discuss the issues that are in that paper as we prepare the report.

I think it's also recognized that there will be areas where there may be differing views of how the committee interprets what was said and the basis for that presentation.

**Mr Curling:** This motion that is put forward here, you can see the watered-down aspect of what the government wants to do, not only the Briefing Notes for Draft Tenant Protection Package Report, as they're being presented; that of course. What we could easily do is just send all the presentations and the Hansard to the minister and say, "Read; that's what it is."

But beyond that, the legislative research staff said that from this came some questions that we must deal with if we want good legislation. That is why, actually, the previous motion was so relevant and this one becomes so watered down to say you must deal with those questions. If we want a good report to be submitted and good directions being given to the minister, you must deal with those questions that were raised.

This motion deliberately deleted that, because what it does, it makes them accountable. It makes them think. It makes them say that we have to deal with the tough questions that keep emerging. This motion is telling us, no, we don't want to deal with that. We're going to leave it in the hands of the bureaucrats to do it for us and we're going to hide behind that. Not only that, but we have secret documents too that we've been seeking for so long, and then later on we're going to reveal them afterwards, when all the thing is completed. That is why any kind of study that's been done, of course it will be made available to all of us after the fact, even though we may find it quite relevant to the things that we'd like dealt with.

Therefore, this watered-down version of the motion here is not adequate at all. It tells us that the weeks that we were out there listening, all we were was a bunch of ears, no thinking at all. We just sit there and just listen. Then they say, "What do you think of this?" "Nothing. We just send this on to the minister." We could send the Hansard on. Anyone can do that. We have — I wouldn't want to say; some of them are underpaid of course — well-paid people, professionals, who record these things and then pass them on. The motion should have read, "We shall take the Hansard report notes and send them on to the minister"; or we can say that whatever the legislative research people have done in a précis form, this is what we heard, but don't think about it. Don't respond at all.

We set aside days to do this, but immediately, while the committee — which I wasn't quite sure of — put aside even a couple of days to debate this, it's saying: "Listen, why debate all this? What we should do is just accept this and run along with this." Questions have been asked. Could we have them speak? We asked the parliamentary assistant, can they speak? No, they don't speak at all. They were instructed to just go along with it — one, two, three, four, five, six, sometimes seven, eight — members on the government side. We say: "Do you think? Do you feel?" and they don't say a word. They

just say, "We have been instructed by the minister to just tell the minister what we heard from people across the province."

Anyway, give some of that impact to some of those questions that were in our minds too. As I said, I haven't had a chance to even ask of the presenters, "How do you feel about that?" They're saying: "Now is not the time for thinking. There's no time at all to have any input. All we've got to do is to present to them what the legislative research people have done." Also, if he wants more, he could just take the presentations that people had presented to the committee from Hansard and use that as the rent control legislation that we will do.

As a matter of fact, I'm not even resisting very much about this, because we have commitments from the government to have public hearings after this when we have legislation. I hope you stand by that after the fact: that we have good, full public hearings on the legislation to have some people have some input.

1640

I can warn the people outside that what we hear, what is written and what the legislation will be will be completely different from what we heard. The people out there will wonder: "Did they listen at all? What about those questions which were raised?" We'll say, "They didn't want to deal with it." I am disappointed that the parliamentary assistant, who had gotten the motion from his minister quickly to slide this in, would have said: "No, don't deal with those provocative questions, those pertinent questions, those relevant questions that would have helped us have good legislation. Just go along with the draft proposal, the draft briefing notes that were presented to us." Unfortunate.

**Mr Sergio:** Just for clarification before I make some comments, Mr Hardeman: Are you saying that we should make this our report and carry on with it?

**Mr Hardeman:** No, I'm suggesting that should be the basis for the report. So I would suggest there would be opportunity to discuss that report and make changes.

**Mr Sergio:** Wasn't my motion saying that we should be debating, asking questions on the briefing notes? Wasn't my motion doing exactly that?

**Mr Hardeman:** I think, as I suggested, that the motion I was proposing was not greatly different from yours, but there was significant difference to the fact that yours dealt with "the committee will proceed to develop a report to the Legislature that provides clear and comprehensive direction to the minister on the key issues raised in the government's discussion paper." I'm not sure that we as a committee can come up with that recommendation on each and every one of those. Our resolution does allow that to take place.

**Mr Sergio:** The thing is this: Mine says specifically based on the Briefing Notes for Draft Tenant Protection Package Report, which is exactly this. The problem that I have with Mr Hardeman's motion is that practically we have to approve this summary, which is a summary, as our report the way your motion is reading. With that I can't agree, and I wish you would rethink that position. You can come out of this smelling like roses or you can smell like skunks.



I'll be very, very blunt with you, because what you're saying in your motion here is, first, it's a summarized view of what our staff has heard, not what you heard, Mr Hardeman; not what I heard; it's what they have heard, what they have pulled out from some of the written presentations which they received. Then you're going further in saying that the report "be based on the Briefing Notes for the Draft Tenant Protection Package Report."

Now, can you tell me how you're going to prepare, how you're going to make that into a form of a report, without asking questions on these notes here? Can you tell me, please, how I can formulate my idea without asking a question of our staff? You're saying in your motion to make a report based on that, but you don't want to ask any questions of staff based on their summarized report. You're doing exactly that.

**Mr Hardeman:** I guess I'm at a loss to understand why Mr Sergio deems it inappropriate to ask staff for comments or questions on the report. I believe it's been his opportunity a number of times today. The Chair brought it forward —

**Mr Sergio:** Mr Hardeman, with all due respect, what's there to debate?

**The Chair:** Can I just clarify so that it might help to move this discussion along? I understand that what Mr Hardeman is proposing is that this form become the template for what we're going to do, but we need to discuss it, flesh it out, add some things to it that we'd like to; not to accept in its exact form, but to use it as the basis, but not to arrive at any conclusions. That's what I understand is the difference between his motion and yours.

**Mr Kennedy:** Point of order, Mr Chair: If that's the intent, then haven't we already passed a motion defeating that exact same thing?

**The Chair:** No, we have not. This is a very different motion because Mr Hardeman's motion doesn't have to do with bringing forward any conclusions, just laying out the different opinions.

**Mr Sergio:** What's the difference between a conclusion and a report? Mr Chairman, I think you'd better explain that.

**Mr Kennedy:** Mr Chair, we've already defeated this motion.

**The Chair:** No, we have not. The motion is in order.

**Mr Sergio:** How can you get to a report without arriving at a conclusion?

**The Chair:** Mr Hardeman is suggesting we don't arrive at any conclusions. That's the motion that's on the floor that we're discussing. You can disagree with that if you choose to, but that's what he is discussing.

**Mr Sergio:** If you want —

**Mr Hardeman:** I guess in clarification —

**The Chair:** No, wait a minute. Let's decide who's going to be speaking here. Are you finished, Mr Sergio?

**Mr Sergio:** I am totally a little bit flabbergasted to be honest with you, because my motion, if you will, is much more concise, much clearer than Mr Hardeman's. You don't want it to be coming from us. Coming from you, so be it. Okay, you have the vote, it's quite evident. But mine is very straightforward that we compile a report, exactly what you want, based on the briefing notes. The only difference is that we can ask some questions on

some of the points. If it's not necessary to ask questions we wouldn't be asking questions on those. It's quite evident and you don't want to ask questions on that, so I find that very strange. I'm sorry.

**Mr Marchese:** Mr Chair, before I speak I'd like some clarification. We have this report here that you alluded to. Mr Hardeman says he's like to discuss this report. On page 2 there's the whole question of vacancy decontrol and on page 3 it asks questions: "Does the committee support the implementation of vacancy decontrol whereby rents could rise to market levels on a change in tenancy? Should some cap be considered on permitted rent increases at the time of vacancy change?" These are questions he raises.

How do you, Mr Hardeman, propose that we discuss that? That we try to answer those questions? So that I know what comments to make.

**Mr Hardeman:** In clarification: I think going to the second-last paragraph of the resolution the words "be based on." It doesn't say "be the report"; it just says "be based on" that report. Yes, I would think in our discussions there would be opportunities to debate those questions and to make recommendations if you wanted to make a further recommendation to the report.

**Mr Marchese:** Why, Mr Hardeman, would you move such a motion that you have here if your interest is in discussing this first? Wouldn't the basis of this discussion formulate the type of motion you might want to have after?

**Mr Hardeman:** My question would be: What would we be discussing if we didn't have this motion first?

**Mr Marchese:** We'd be discussing presumably this paper. I'd be interested to know what you folks think about some of the questions that are raised. I really would like to know. That's why I asked: What is your position on vacancy decontrol? What is your position on rental housing accommodation? I really would like to know from you. But if we're not going to discuss such things, then I'm not clear what it is that you want to discuss. When we get to some of these sections, are we going to hear from you what your position is or are you just going to hear from us what our position is? Because otherwise it's futile, this whole thing. What is it that you would be saying when we get to some of these questions? You as a parliamentary assistant.

**Mr Hardeman:** As individual questions, it's very difficult, in dealing with this resolution, to answer your question as to what I will be saying on each one of the issues. I, along with the other members of our committee, will be stating our thoughts on the issue that is before the committee at the time.

**Mr Marchese:** Mr Chair, I don't know.

**The Chair:** Would you like to pass the baton to the next person, Mr Marchese, or are you finished?

**Mr Marchese:** Are there some government members who are on the list?

**The Chair:** Mr Stewart wants to speak and Mr Kennedy wants to speak.

**Mr Marchese:** I'd like to wait then.

**Mr Stewart:** Mr Chairman, I'd like to request a recess for five minutes, please. Then we'll come back for two minutes.



**The Chair:** Let me just put the record straight: If we have a recess for five minutes, then on this issue when we come back, we have a vote. Discussion is over.

*Interjections.*

**The Chair:** Do we want a five-minute recess and then come back and vote on this motion?

**Mr Marchese:** One doesn't lead to the other, Mr Carroll.

1650

**The Chair:** A five-minute recess and we're through for the day.

**Mr Marchese:** It almost takes us to the time, but based on what you come up with on your seance, we might say we need an extra 10 minutes. We could do that.

**The Chair:** A five-minute recess takes us past 5 o'clock.

**Mr Marchese:** Oh, I've got 10 to 5 on my watch. I see.

**The Chair:** We're adjourned at 5 o'clock.

**Mr Curling:** Before we take a recess, I'm confused about this. If we take five minutes, it carries us over to 5 o'clock. Are you saying that there's a different ruling as we get back?

**The Chair:** No, I'm not. I was wrong on that, because I have not called the question.

**Mr Marchese:** Mr Carroll, I could move a motion to extend the time for 10 minutes if we need that. It's not a big deal. We can be flexible. I'd like to know what the government members are going to think about.

**The Chair:** We have a motion on the floor we're dealing with, so we can't entertain another motion while we're dealing with the motion that's already on the floor. Is there unanimous consent to recess for the evening?

**Mr Curling:** If we do that, though, we have this other thing to resolve.

**The Chair:** To adjourn. The motion stays on the floor.

**Mr Marchese:** Could I ask the clerk, could we introduce a motion to extend the time before we recess?

**Clerk of the Committee:** No. There's a motion on the floor right now. There has been a request for a five-minute recess. Is there unanimous consent — that would be the next question — for this five-minute recess, which would take us till the end of the day, as agreed to, 5 o'clock, the motion is still on the floor.

**Mr Marchese:** So why would the government need a five-minute recess if we come back to vote? It makes no sense.

**Clerk of the Committee:** We don't necessarily have to come back to vote, because the question hasn't been called. He's just asking for a five-minute recess. The debate and the motion would still be on the floor whenever we resume.

**The Chair:** The situation is that we have four minutes left.

**Mr Marchese:** I think we should move on then, Mr Chair.

**The Chair:** There's no unanimous consent for a five-minute recess? Then we will carry on, and the next speaker —

*Interjections.*

**The Chair:** There was no question. I hadn't asked the question, nobody asked for the question on the motion, so the motion is on the floor. Mr Stewart asked for a five-minute recess. There's no unanimous consent for the five-minute recess. You can have a five-minute recess if there's a vote being called. Then it's automatic, but other than that it needs unanimous consent, and Mr Stewart has not got unanimous consent, so there is no five-minute recess.

Mr Kennedy is the next speaker.

**Mr Marchese:** Mr Stewart, you aren't speaking to this?

**The Chair:** Unless Mr Stewart has something else to add.

**Mr Stewart:** Not at the moment.

**Mr Kennedy:** Just to express, I accept your ruling, because it's your prerogative, that we are able to reject the motion that says that the basis for the dividing report will be the questions laid out in the document and yet at the same time we can approve a motion that would say that the report is based on those self-same briefing notes. I assume that the difference you see is the part I'd like to address, which is that the previous motion talked about "clear and comprehensive direction," which I think is a natural — I mean, as comprehensive as we can achieve, obviously not comprehensive in some omnibus type of sense. But we have been asked to review and report on the matter of rent control. We have not been asked to restrict our deliberations and we have not been asked not to draw conclusions.

I don't know to whom I can address this, because I heard the Chair make the interpretation point. Maybe Mr Hardeman could answer this question. Is it your ambition or restriction in this motion that we not draw any conclusions, even if we can get agreement here in those discussions? I heard you say we would consider the questions, just as Mr Sergio had asked us to, but are you agreeing that we won't be able to arrive at any conclusions? I don't see that in the motion, with due respect, Mr Chair.

**Mr Hardeman:** No, I would not interpret it to say that we could not reach any conclusions or any recommendations, but I believe the previous resolution obligated us to reach those conclusions, and I don't believe that will necessarily be achieved. In my opinion, that's the difference, and the Chair ruled that there was a difference in the two.

**Mr Kennedy:** As I say, I'm prepared to accept it and not make that a point of discussion, but I am then confused about why the government would propose this motion over the other, because it's clear there is that possibility. Everything they want to do was in the previous motion, and we're getting into an area here where, for the simple sake of frustrating the opposition, we're not able to do that. I understand that for the purposes of the technical part, which is where the Chair has ruled, there is some difference. But the difference I just put back to you, Mr Hardeman, you say doesn't exist, so when it says "clear and comprehensive direction," that's just a possibility for us. The other basis is the same. It's exactly the same motion. Those are my comments, Mr Chair. Thank you.



**The Chair:** It being 5 o'clock and our agreement to adjourn at 5 o'clock, the committee stands adjourned until Wednesday.

**Mr Curling:** Before the adjournment, there is something to be resolved about the Friday stuff. We still have a disagreement about this Friday, so could we then say that we want to adjourn until we resolve the problem about Friday? Because we are not quite sure that the committee has the authority to review rent review on Friday.

**The Chair:** We are adjourned until Wednesday in Niagara Falls, this committee.

**Mr Marchese:** Mr Chairman, on Wednesday in this committee we're going to have different members discussing different issues. What does that mean with respect to this?

**The Chair:** Wednesday, we're meeting on Bill 52. Thursday, we're meeting on Bill 52. Friday, this committee reconvenes to —

**Mr Marchese:** Mr Curling has raised a question about Friday.

**Mr Curling:** Could we postpone the decision to meet on Friday on rent review and have it resolved maybe tomorrow? Because the fact is what I had before me here is a letter coming from all whips, saying that they are writing to confirm that the standing committee on general government will be allowed to sit on Monday, September 9. The committee has already had permission to sit on Wednesday and Thursday, but it wasn't dealing with rent control.

You wanted the committee to deal on Monday with rent control. It is assumed, sir, that because that was agreed on a Monday, it's automatic that we would sit on

Friday. The committee can always sit on Friday if it wants to, because once the committee is sitting the note stated that it can sit on Friday. It didn't say, though, that we must sit on rent control. That's the dilemma we have. The fact is that my whip agreed to Monday, September 9, for this, but never agreed on Friday, and what I caught you on, sir, is that because we're sitting in the week the committee automatically can sit on Friday.

**The Chair:** If the committee has the right, which it does, to sit on Friday, it has the right to sit on any issue and the Chair has the ability to call a meeting, which everyone agreed to last week, Mr Curling. I called the meeting for Friday, we sent out notices for Friday, and as I understand the rules, the committee is allowed to sit, I as the Chair am allowed to call the meeting and the meeting will stand unless you want to appeal —

**Mr Curling:** I just want to be plain on this. I just want to get this clear. The committee was allowed to sit this week on Wednesday and Thursday. No rent control is being discussed. It was asked then by the whip if we could sit on Monday for that. Because it is sitting on that on Monday, you're assuming then that Friday we can deal with rent control.

**The Chair:** I'm not assuming, Mr Curling. I made a decision as the Chair that on Friday the committee, which is allowed to sit, was going to sit and discuss the rent control report. If you want to challenge that decision to another level, you're quite free to do that, but that is a decision that I understand I can make and that there was agreement on.

We are adjourned until Wednesday in Niagara Falls.

*The committee adjourned at 1659.*



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**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
\*Mr Ernie Hardeman (Oxford PC)  
\*Mr Rosario Marchese (Fort York ND)  
\*Mr Bart Maves (Niagara Falls PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
\*Mrs Lillian Ross (Hamilton West / -Ouest PC)  
\*Mr Mario Sergio (Yorkview L)  
\*Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
\*Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Ms Isabel Bassett (St Andrew-St Patrick PC) for Mrs Ross  
Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello  
Mr Gerard Kennedy (York South / -Sud L) for Mr Grandmaître  
Mr John L. Parker (York East / -Est PC) for Mr Tascona  
Mr Bruce Smith (Middlesex PC) for Mr Flaherty  
Mr Wayne Wettlaufer (Kitchener PC) for Mr Young

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell, Mr Jerry Richmond, research officers,  
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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 11 September 1996

# Journal des débats (Hansard)

Mercredi 11 septembre 1996

## Standing committee on general government

Aggregate and  
Petroleum Resources  
Statute Law  
Amendment Act, 1996

## Comité permanent des affaires gouvernementales

Loi de 1996 modifiant de lois  
en ce qui concerne  
les ressources en agrégats  
et les richesses pétrolières



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 11 September 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 11 septembre 1996

*The committee met at 0959 in the Sheraton Fallsview Hotel, Niagara Falls.*

AGGREGATE AND PETROLEUM RESOURCES  
STATUTE LAW AMENDMENT ACT, 1996LOI DE 1996 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES RESSOURCES EN AGRÉGATS  
ET LES RICHESSES PÉTROLIÈRES

Consideration of Bill 52, An Act to promote resource development, conservation and environmental protection through the streamlining of regulatory processes and the enhancement of compliance measures in the Aggregate and Petroleum Industries / Projet de loi 52, Loi visant à promouvoir la mise en valeur des ressources, la conservation ainsi que la protection de l'environnement en simplifiant les processus de réglementation et en renforçant les mesures de conformité dans l'industrie pétrolière et l'industrie des agrégats.

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to Niagara Falls and to the beginning of the hearings by the standing committee on general government on Bill 52, An Act to promote resource development, conservation and environmental protection through the streamlining of regulatory processes and the enhancement of compliance measures in the Aggregate and Petroleum Industries.

AGGREGATE PRODUCERS' ASSOCIATION  
OF ONTARIO

**The Chair:** Each presenter has been given 20 minutes. Any time that's allowed for questions in that 20 minutes will be split evenly among the caucuses.

We will begin with the first presenter, Mr Cook, the executive director of the Aggregate Producers' Association of Ontario. Mr Cook, your questions, should you leave time for them, would begin with the Liberals. The floor is yours, sir.

**Mr Rob Cook:** Mr Chairman, committee members, ladies and gentlemen, good morning. As the chairman mentioned, my name is Rob Cook and I'm the executive director of the Aggregate Producers' Association of Ontario. It's a pleasure to appear before you today, being the first of what I'm sure will be many presenters over the next two days in regard to Bill 52.

I'm speaking to you today on behalf of the association and the 131 member companies actively engaged in the development of Ontario's aggregate resources. Our membership represents 84% of the 130 million tonnes produced annually in the province and our members

represent over 1,000 licensed or permitted properties in the province.

We represent both large and small companies from all parts of the province. However, the majority of our members are small businesses. The common concern of those companies, large and small, is the increased duplication, redundancy and costs associated with the aggregate resource approval processes under both the Aggregate Resources Act and other statutes.

Our organization has a long history of interest and active participation in the development of aggregate resource legislation, regulation and policy, beginning with our creation in 1956.

I am here today to express our strong support for Bill 52. We believe the bill provides important and much-needed improvements to the Aggregate Resources Act, and I would like to provide the committee with general comments on what I view as the five major components of the bill, these being industry self-assessment, the licensing process, rehabilitation security, the abandoned pit and quarry fund and the Aggregate Resources Act trustee.

I would also like to discuss several areas of concern with the bill and propose changes that we feel will make a good bill even better. It is our intent to provide the committee with a detailed written submission in the near future, including suggested amendments.

One of the fundamental areas of change in the bill is the establishment of a compliance partnership, more commonly referred to as industry self-assessment. We strongly believe the self-assessment initiative is a positive and credible move forward. It is the cornerstone of the bill and the government's new approach to aggregate resource management.

The association has had experience with industry self-assessment in a practical sense from the time the initiative was first conceived under the previous government in the spring of 1995. Successful pilot projects involving 12 APAO member companies and 41 licensed sites were completed in the townships of Uxbridge and West Carleton in the fall of 1995. The pilot projects clearly revealed the positive potential of self-assessment and that experience provided the basis for the expanded 1996 voluntary program currently being undertaken by association members on over 1,000 properties.

The benefits of self-assessment are many: It allows the ministry to focus reduced staff on compliance issues and compliance action where it is needed most; the industry maintains or enhances overall credibility by ensuring that all licences are assessed for compliance on an annual basis; there is an enhanced working knowledge by all company personnel of the act, the regulations and the site



plans; licence holders, the ministry, municipalities and the public will have more detailed information related to compliance issues and remedial action; in most cases self-assessments are more detailed and comprehensive than inspections previously performed by the Ministry of Natural Resources.

We believe that self-assessment, in combination with other initiatives contained in the bill, will provide MNR an expanded compliance enforcement capability. The association will be bringing forth amendments to clearly establish that self-assessment should not be self-incriminating to those who complete the assessment in good faith. The success of the initiative is based on the honest identification of non-compliance issues and timely remedial action by licensees.

Based upon completing the assessment or undertaking appropriate remedies, we believe punitive action against licensees would not be appropriate and would compromise the effectiveness of the initiative. The association does, however, support immediate and severe penalties for serious contraventions of the self-assessment program. We support immediate licence suspension for failure to complete self-assessment, for falsification or for failure to meet remedial action time frames.

If MNR focuses on the bad actors in the industry, then overall industry compliance will be greatly enhanced. Self-assessment will raise the level of compliance across the industry to the benefit of all.

I must stress that the proposal under Bill 52 is not self-regulation in its true sense and it is important to recognize that MNR remains as the enforcement agency with statutory authority to enforce the act. The aggregate industry is prepared to accept, and is capable of accepting, the additional costs and responsibilities of self-assessment because of the significant long-term benefits to all stakeholders.

A major and long overdue initiative of Bill 52 is the rationalization and streamlining of the licence application process. The existing process and requirements under the Aggregate Resources Act have become counterproductive to maintaining resource availability for future generations.

The current process to acquire a licence is lengthy, more than 10 years in many cases; costly, anywhere from \$500,000 to \$3 million to complete the process; and fraught with uncertainty. Unfortunately, many people have incorrectly assumed that more process, more time, more money equals better decisions. What this process has caused is reduced resource availability, increased costs to consumers and concentration in the industry, as small and medium-sized companies cannot afford the costs or the risks of the process.

We support the general direction of Bill 52 in terms of reducing costs and time frames while maintaining high environmental standards. To accomplish this objective, we support the establishment of standard provincial technical reports so that it is known to all up front what information is required; we support standard licence conditions so that applicants and the public know at the start of the process what conditions will be attached to a licence; and we support reforming the role of the Ontario Municipal Board in terms of scoping issues and objections, making a decision in the issuance or non-issuance

of a licence and the elimination of appeals to board decisions. We also support the Ontario Municipal Board continuing to provide recommendations to the minister in terms of licence conditions.

The association will be bringing forward recommendations regarding the public consultation process and the requirement to negotiate with objectors.

The new rehabilitation security system contained in Bill 52 is also supported by the association. The superfund concept provides far superior protection against sites being left in a derelict condition as a result of bankruptcies or licence revocations. The existing system has shortcomings in terms of inadequate site-specific security for licences that end up in bankruptcies or are revoked. With the new bill, millions of dollars from the superfund will be available for the rehabilitation of any site, eliminating the current limitation of the site-specific security deposit.

Rehabilitation, both progressive and final, is required by law through the act, regulations and site plans. Failure of licensees to undertake rehabilitation will result in punitive action or licence suspensions by MNR. We have come a long way since 1971 and the Pits and Quarries Control Act. Rehabilitation is now an accepted, almost routine, activity associated with the operation of an aggregate site.

Ontario aggregate producers have distinguished themselves by building an unsurpassed record in North America for rehabilitation innovation and activity. The proposals in the bill will move the industry forward and replace a system that is complicated and time-consuming for both industry and government.

The association also supports the provisions in Bill 52 relative to the abandoned pit and quarry fund. We believe that the fund will be more efficiently administered by the Aggregate Resources Act trustee and that APAO can effectively deliver the abandoned pit and quarry fund program as announced by the minister. This administration and program delivery outside of government will further free the time and resources of MNR inspectors for compliance issues.

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In terms of the Aggregate Resources Act trustee concept contained in the bill, we support the position that financial and other matters can be more effectively and efficiently administered by a trustee that is directly accountable to the minister, Lieutenant Governor in Council and the Legislative Assembly.

I mentioned earlier that there are some issues of concern with the bill and some areas of improvement that the association will be submitting recommended amendments on. I would very briefly, in addition to those already referenced, like to describe some of them to you.

Firstly, the association will be supporting and recommending additional restrictions to wayside permits. We believe that only MTO and the crown should be able to obtain wayside permits and those permits should be for road construction and reconstruction only, not road maintenance.

APAO will also be suggesting that when it is necessary for the trustee to utilize the superfund for site rehabilitation resulting from bankruptcy or revocation, the costs, in



addition to being a debt to the most recent licensee, should also be a debt to the land owner. This is relevant in areas where leases have existed for years and both parties have profited from the extraction of aggregate resources.

APAO will also be recommending amendments to section 66 to include development control permits issued under the Niagara Escarpment Planning and Development Act as instruments that cannot override or conflict with the provisions of the Aggregate Resources Act, regulations or site plans. It is essential that the government clearly uphold the rights previously conveyed to licensees through provincial approvals under the Aggregate Resources Act.

APAO will be supporting the minister's ability to refuse a licence application based on the applicant's past compliance history, but will be recommending that compliance issues only be before the Ontario Municipal Board when an application has been refused by the minister for that reason.

We will be recommending that no proceedings be initiated under the act without the approval or consent of the minister.

We will also be recommending that the five-year limitation period for proceedings in respect to an offence is too long. However, it is reasonable to increase the current six months to two years.

The association has been traditionally concerned with the general approach of providing detailed information in the regulations and not the act. However, we recognize the need for flexibility in implementing the new initiatives and are prepared to work with the ministry and the government to develop viable, workable regulations.

I would like to thank the committee for the opportunity to provide the industry's views, and I would be pleased to answer any questions you may have.

**The Chair:** Thank you, Mr Cook. We've got two minutes per caucus, beginning with Mr Brown.

**Mr Michael A. Brown (Algoma-Manitoulin):** Certainly the aggregate industry is extraordinarily important to Ontario, and the public sector obviously is one of the larger consumers of your product. I want to just ask you a little about your last point.

One of the things that has concerned us in particular is that this bill is more or less a shell, which will be defined, in essence, by the regulations that will come out of it. In reading this bill, you can read a lot into it, depending upon what the actual regulation is that implements a particular section of the act.

Could you tell me if you have consulted with the ministry and have been able to see a draft of the regulations that are, at least at this point, intended to be put forward with this bill?

**Mr Cook:** Certainly we have not seen a draft of regulations. The ministry has consulted with us on more conceptual matters related to the act, but obviously in the area of self-monitoring we've probably had more detailed discussions in terms of how that system should and could work.

**Mr Michael Brown:** There's a great concern, I think it would be fair to say, on behalf of the public, the general population, and the industry itself in knowing

what the standards are that need to be met. You alluded to that earlier, that there would be a common set of standards across Ontario. For us, it's extraordinarily difficult in opposition to try to determine whether that's really the crux of this bill. Not to know that is causing us great difficulty, and I'm a little concerned — well, I'm more than a little concerned, I'm greatly concerned — that you haven't seen what the ministry intends in this particular instance.

**Mr Cook:** That is true, we haven't. Traditionally, we have had the position that it's better to see it in an act. Our position was based on the fact that we thought it would be more difficult for subsequent administrations or ministers or governments to change what was established. I guess in reality it's as easy to change legislation as it is regulations if you're a majority government. It may take a little longer.

**Ms Shelley Martel (Sudbury East):** Let me follow up, actually, and I'll give you some more time to respond, Mr Cook. As opposition members, we are very concerned. We're concerned that all of the technical details that would have gone out when we did the Crown Forest Sustainability Act, for example, do not appear, although both Mike and I asked for that during second reading debate.

I am also concerned that all of the details with respect to site plans for class A and class B licences, which did appear in the act, will now appear in regulation, and we don't know whether or not those will stay the same. Frankly, I'm also concerned that a number of areas where notification used to be provided to either municipalities or, in the case of unorganized areas, to people residing in the unorganized areas that may be affected by a new quarry or an increased quarry have now been completely taken out of the act.

Our concern is that we are dealing with a shell and a lot of the important changes that you should know about, that we should know about and the public should have access to don't appear here. I don't have a good explanation for that, and I wonder if the ministry or the minister has said to you why that's the case with this act.

**Mr Cook:** No, the minister has not said to us why he has chosen to go this route. I guess the bottom line in our assessment of where we're at with the new legislation and the changes is that we accept that the act provides an important conceptual framework for what we believe are some positive changes. From that perspective, at some point you have to have some degree of trust that the process to develop the regulations is going to involve all stakeholders, including the industry and the public and the interest groups and municipalities. We feel at this time it's probably more important to get on with developing those regulations than it is to hold the conceptual framework up.

**Mr Frank Klees (York-Mackenzie):** Mr Cook, thank you for your presentation and certainly for your expression of support. Along the lines of the questioning that you've had from the opposition parties, I just want to confirm for the record that in fact your industry association has had extensive consultation with the ministry on the direction of this legislation. Is that correct?

**Mr Cook:** On the legislation, yes.



**Mr Klees:** I also understand that your industry has been involved in a pilot project over the last number of months around the issue of self-compliance and self-monitoring. Is that correct?

**Mr Cook:** That's correct.

**Mr Klees:** In the course of your discussions with the ministry relating to the regulations, are you satisfied that the direction the ministry is taking this legislation is consistent with the intent of your association? Do you have any reason at all to be concerned that the regulations will contain provisions that would be diametrically opposed to your industry?

**Mr Cook:** No, I don't. There's no question.

**The Chair:** Thank you, Mr Cook. We appreciate your input this morning.

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### REGIONAL MUNICIPALITY OF NIAGARA

**The Chair:** Our next presenter is from the regional municipality of Niagara, Bill Smeaton, the chair of planning, Corwin Cambray, the manager of policy planning, and Ken Forgeron, the planner. Good morning, gentlemen. Welcome to our committee. The floor is yours.

**Mr Bill Smeaton:** Thank you, Mr Chairman and members. First of all, we appreciate very much the opportunity to be with you here this morning. I have with me Mr Corwin Cambray, the manager of policy planning with us in Niagara at the region, and Mr Ken Forgeron, the planner whose duties entail at present a great deal of work with approvals and scrutiny of plans involving this particular industry.

Our recommendations and comments are those approved by the planning committee this year and the regional council and are before you in report DPD 95-96. Mr Chair, you have the report, I believe, and your members.

As an overview, the regional municipality of Niagara has had considerable experience on aggregate resource management issues, reviewing site-specific applications, preparing regional studies, presenting a brief in the 1980s to the standing committee on resources development of that day on the then proposed Aggregate Resources Act of 1989 and representing the Association of Municipalities of Ontario on the provincial aggregate resources working group as well.

Regional Niagara has supported new aggregate operations consistently, although they may have been contentious and require thorough review and appropriate conditions that need to be monitored. I might add at this time that it is my opinion, and I believe I can speak on behalf of my colleagues on regional council and certainly the two members of staff who are with me, that we have had good cooperation from the major quarry operators in the peninsula here, Walker Bros, TCG on the Fonthill kame, Port Colborne Quarries, of course, and R.E. Law in Wainfleet.

The 1989 act provided a reasonable balance, we believe, between the need for the resources and other important social and environmental needs of communities in which extractive operations are located. Bill 52,

however, tips this balance, in our opinion, which we believe will lead to a more controversial situation and possible litigation.

In transferring more responsibility to industry, there is a concern that there may be less public accountability, less scrutiny of the industry operations and possible lack of compliance with approved licensed site plans and conditions by the poor operators which exist in any industry, although quite frankly in Niagara we haven't seen much of that, and that's my opinion.

With the substantial downsizing of the Ministry of Natural Resources, there is a concern over the ability to enforce provincial standards as well as licence conditions.

There are 12 major issues of regional concern outlined in our report. The recommendations contained are intended to ensure better public accountability and trust, more effective licence compliance with approved licence site plans and conditions, upfront information requirements and review criteria for all applicants, appropriate and fair treatment of all stakeholders and, finally, the municipal planning tools needed to obtain benefits that reduce the negative impacts of aggregate extraction in the community.

Some key issues, Mr Chairman and members: While all 17 recommendations set out in the regional report to this committee are considered important, there are several that stand out, in our view, that I would like to briefly touch on.

(1) Recommendation 5 on page 5, relating to the need for basic upfront information requirements in the act.

(2) Recommendation 7 on page 7, relating to the Ministry of Natural Resources' key role in carrying out ongoing inspections and enforcement responsibilities.

(3) Recommendation 9 on page 7, requesting the ministry to provide affected municipalities copies of their review and assessment of the annual compliance reports from operators.

(4) Recommendation 11 on page 8, urging that the ministry maintain its front-line role in responding to public concerns and complaints over licence compliance and/or operational issues.

(5) Recommendation 12 on page 8, suggesting that the OMB be delegated the power to determine and set licence conditions for applications appealed and referred to it. Obviously there's a difference of opinion there, as we have heard this morning.

(6) Recommendation 13 on page 9, giving municipalities and individuals the same opportunity as licensees for a hearing on proposals for major amendments to site plans and/or changes to conditions of an existing licence. We believe this is a fundamental right and are concerned on this matter.

(7) Recommendation 15 on page 10 of our report, requesting that the current incentives continue to be available on refunding rehabilitation security fees on an annual basis to licensed operators who have demonstrated acceptable, progressive and sequential rehabilitation of their sites. We have some excellent examples in the peninsula here of work well done in the past.

(8) Recommendation 17 on page 11, allowing municipalities an opportunity to provide comments on the appropriate amount of money to be disbursed from



licence fees collected from aggregate operations. Some of our member municipalities have had considerable work to do at considerable cost with regard to, in particular, road rehabilitation over heavily used access ways to quarries. You have to get the product out, obviously, but in some municipalities there's a very limited number of roadways that can be used and they certainly do take a beating.

(9) Recommendation 19 on page 12, allowing municipalities to use both development agreements and development permits to secure some benefits, like the upgrading of haulage roads to reduce the impact of aggregate extraction.

In closing, I would like to stress that the regional municipality of Niagara recognizes the fiscal constraints present on all levels of government. The recommendations proposed by ourselves are intended to build on the following four cornerstones: public accountability to ensure licence compliance, upfront information and review criteria, appropriate treatment of all stakeholders and assistance to all municipalities in obtaining some compensating benefits.

I think that very briefly gives you a summary of our concerns. We make the presentation in a positive sense. Our experience in Niagara has been good in the past, and the concerns, as I have listed, are very definite, but we do make them in a positive sense to your committee.

**The Chair:** Thank you. We've got about four minutes per caucus for questions, beginning with Ms Martel.

**Ms Martel:** Thank you for your presentation. Let me begin by asking this question. I'm given to understand that about 700 licences are issued to lower- or upper-tier municipalities in the province. There are about 2,700 licences in total. Can you describe to the committee what your input was, either through AMO or any other body, to the minister with respect to the changes proposed in the bill?

**Mr Smeaton:** We had considerable input. Corwin Cambray was front and centre in that. If I may refer it to him, he's had the front-line experience there.

**Mr Corwin Cambray:** With the changes to the bill, as it says in our report at the beginning, we had no input to the changes before the bill came out, and there was a concern that there was no input. We understand that the Aggregate Producers' Association of Ontario did have input, but municipalities had no input.

**Ms Martel:** Given that and given the fact that a number of the issues that some of us are concerned about will be dealt with in regulations, some very important issues in fact, what confidence do you have, then, if you weren't invited to participate in the changing of the bill, that you now will be invited to participate in the regulation-making process?

**Mr Cambray:** As it says in the report, we are concerned about that. We believe that there have to be upfront information requirements in the act, not in the regulations. As Chairman Smeaton mentioned, there is one recommendation that specifically addressed that, requesting that those information requirements be put back into the act.

**Ms Martel:** I noticed in a number of sections that notification for changes that used to go to municipalities or notification of changes that used to go to people who

lived in unorganized areas are either entirely deleted or are changed. For example, with respect to municipalities, I note in the new section 18 that when it comes to a transfer of a licence, the municipalities, as I read it, will be notified of this after the transfer has already been taken and after the minister has already given approval for the same.

Given that you've already told the committee that your relationships with both the companies and with MNR have been quite successful, can you give me any reason why some of the notification that used to take place before, so you could comment, now seems to happen after the fact, after the change has already been made?

**Mr Smeaton:** That's a very basic concern. As we did outline, it's essential. When I mentioned before that we have had considerable input, I was referring to past experiences under the new legislation. As has been explained, there hasn't been any to date and we feel there would far too little now — a major concern.

1030

**Ms Martel:** You would feel that the input you have provided as a regional municipality has been very legitimate, good; you've provided good advice or, where there have been problems, you have noted that advice to MNR, so there should be no reason for the ministry or minister not to want your input or advice on some of these issues any more.

**Mr Smeaton:** We've had a very happy experience to this point in time, before the existing act and during the existing act, and now our concern is that we're going to be far more lacking in information and lacking in the opportunity to have that input.

**Mr Klees:** Thank you for being here today and for your input. A couple of questions: You indicated that certainly your experience with quarry operators within the region has been a positive one. I'm just wondering about your concern regarding the issue of self-monitoring and self-compliance. As you're aware, that was initially a direction that was taken by the previous government. There were a couple of pilot projects that were established at that time, I believe in 1985, in a couple of regions within the province and the results of that were very positive.

The indications we have had are that certainly it's a mature industry, a responsible one. That generally is the feedback we have. As in any industry obviously, as you indicated, there are some bad players and we have to deal with that. Certainly this government is very concerned that we have the resources to focus on those people who aren't living within the rules and the regulations.

One of the objectives of self-compliance is that we bring the industry into partnership with government to ensure that business is done in an ethical and appropriate way, and to utilize the resources of the industry wherever possible. We believe, for the record, that as a result of being able to bring in the resources of the industry to the self-compliance component, it will free up the percentage of time that ministry staff have to ensure they can focus on those people within the industry who need the attention of the inspections and of compliance and compliance enforcement. I'd be interested in your comments on that, given your very positive experience within your region of



quarry operators and the direction the government's taking on this.

**Mr Smeaton:** We feel we've had that partnership arrangement in the past, but I personally think we're now almost in a situation whereby we're asking the pitcher to evaluate his own pitches and the batter to do the same without an umpire. That's our concern. We feel that you have to have a referee, you have to have an umpire. We're a bit worried that although we've had no problems in the past, especially in Niagara — very fine corporate citizens, and I make that statement without reservation, the ones we've been dealing with. But I am concerned. I have seen as a member of the escarpment commission over a number of years — although I'm not a member at present; my popularity down here rose considerably when I left that committee — some problems that certainly were serious ones in Grey and Bruce and other communities throughout the central core. We're not talking about the fox looking after the chicken coop, but I think we need a referee stronger than what I see proposed in this legislation you have before for review.

Again, my comments are made in the most positive sense as far as our relationship with Walkers, R.E. Law, Port Colborne Quarries and the others — TCG on the Fonthill kame.

**Mr Klees:** I appreciate that, and I appreciate you also using the term "umpire" in this context, because I think the analogy's a good one. I want to underscore that the government has no intention of deferring that very important role to the industry. It will very much be there as the umpire, as the enforcer, if you will. We believe we will be better positioned to do that because the resources of our ministry staff will be freed up to focus on that compliance role.

**Mrs Sandra Papatello (Windsor-Sandwich):** Thank you, gentlemen, for coming today. If I may pick up on Mr Klees's comments, we've been watching the disbanding of the MNR for some time now. Do you have any comfort level that what few inspectors may be left there would be available to travel the province and do the job they would be doing as umpires?

**Mr Smeaton:** We have some concern, but I really don't have the figures before me as to what's proposed in terms of the new numbers that will be in the field. That is a concern in itself, and we address that here. There's not quite enough specific information here, and we would like that noted, Mr Chair, if you could, please. We feel there's a lot of information lacking, and one of the pieces of the puzzle that's not there is just how many people will be in the field and exactly what will be their role.

**Mrs Papatello:** When Mr Cook spoke before you today representing the Aggregate Producers' Association, he mentioned that in the area of self-assessment, although some more detail would be required — he was looking for that as well — he saw the role of the MNR to be used only in areas of serious contravention. I don't know what that means or what is serious, what constitutes that, but how comfortable would you be with their role only, as Mr Cook put it, in the area of serious contraventions and at which point there are severe penalties now being added for those serious contraventions? Would you want to have some kind of definition of that?

**Mr Smeaton:** I think a definition of that would be helpful. I do believe an ounce of prevention is worth a pound of cure, especially when you're dealing with the removal of aggregate. You're dealing with a major physical change to landscape, and once it's done it's not easily restored; in fact it can never be restored completely, although we've seen some good examples of fine stewardship in that area. It's difficult to answer your question specifically, but the concern is definitely there that we should have people keeping an eye on things at all times, because you can't get things back to normal once the problem has started; not easily, anyway.

**Mr Michael Brown:** I really appreciate this presentation, particularly the way you've laid out these recommendations. I think this gives us a real opportunity on our first day to scrutinize this bill more carefully. One of the things concerning me is that the government may be looking at using the aggregate producers and the funds that the province gets — it gets one cent, I believe, per tonne of aggregate produced — and will be supplying virtually no services in relation to that amount of money. The inspectors who are going to be out there are going to be rather minimal, offering the industry perhaps not the protection the government sometimes gives the industry by verifying reports the industry has made etc. That often helps the industry; it doesn't hinder it. Your municipality also receives some of the moneys from aggregate extraction. In your experience, has that allowed you to do whatever policing you need to do as a municipality in an equitable way and provide moneys for things, like road improvements, that need to be done?

**Mr Smeaton:** It's never enough, I suppose, if you look at the aggregate association.

**Mr Michael Brown:** Silly question, I guess.

**Mr Smeaton:** I can tell you that — and I'm speaking from the political vantage point here — really when you take a look at people like Walkers who have come to us always before they've done their projects and tried to work out good, reasonable solutions to the municipality's problem, which is usually dollar bills, it's hard for me to be critical of what they have done. But I have seen problems in the north. As I'm sure most of you are aware, we don't have the wayside pit problem down here that the north has. What I would like to leave you with is that the status quo gives us much more comfort in that area than what we have in front of us now; hence our concern.

1040

**The Chair:** Thank you, gentlemen. We appreciate your input here this morning.

**Mr Smeaton:** You're welcome, and thank you again.

**Ms Martel:** On a point of order, Mr Chair: If I might, we seem to be operating in a vacuum around just how many site inspectors will be left to do the job as umpire, referee, whatever you want to call it. I wonder if the parliamentary assistant can provide the committee, at his earliest convenience, with the exact numbers of how many site inspectors we're going to be left with. We have numbers that go from 40 at present down to 14. If it's more than that, I think we all want to be aware of that and know what we're operating with.

**The Chair:** Mr Klees, do you have the answer now or do you want to get back to us?



**Mr Klees:** I don't have the answer now. I will certainly provide whatever information I can in generalities. As the member is probably aware, these decisions have not yet been firmed up. We're in the process of making those decisions, and they will be made over a period of time. For us to be able to return to this committee to say that there will be X number of employees fewer in this particular area is unreasonable to ask at this point. But I certainly will come back and provide some comment with regard to staff.

**The Chair:** Okay, Mr Klees. I would like to remind the committee members that our purpose here today is to hear the people from Niagara region give us input. Arguments among ourselves about points of order and so on we can do any place. I'm a great protector of people's time.

**Ms Martel:** On a point of order, Mr Chair —

**The Chair:** Is it on the same point, Ms Martel?

**Ms Martel:** With due respect, I think a lot of the presenters here would like to know this very information. In response to Mr Klees, we know that 900 bargaining unit staff of the Ministry of Natural Resources have already received their layoff notice, in mid-May, and I expect a fair number of other management staff received it at the same time. I'd like to know even within those numbers how many of them might have been site inspectors.

#### PEMBINA RESOURCES LTD

**The Chair:** Our next presenters are from Pembina Resources Ltd, Brian Boulton, vice-president, Alex Wilson, André Czychun and Andrew Cantwell. Good morning, gentlemen. Welcome to our committee.

**Mr Brian Boulton:** I thought I'd begin with a brief background on Pembina. Pembina is a private Canadian oil and gas company with significant operations in Ontario. Our Ontario operations office is in Port Colborne. We have a field office in Renwick, a gas plant at Morpeth and a land office in London. Pembina is the largest oil and gas producer in the province. We have gas wells in Lake Erie which produce the bulk of Pembina's current gas production of over 30 million cubic feet a day in Ontario. Our oil production is centred in the Leamington area where we produce over 2,000 barrels a day of light sweet crude oil from the Ordovician pools discovered in the 1980s.

Pembina has a strong safety and environmental record. Our health, safety and environment group has developed policies and procedures to protect the public, our employees and the environment. Pembina has a quality control and quality assurance program that ensures all new facilities and equipment meet corporate standards. Pembina's corporate standards meet or exceed all the provincial and federal requirements in all the provinces where we operate.

Bill 52 changes to the Petroleum Resources Act: Pembina and other members of the oil and gas industry have lobbied for changes to the existing Petroleum Resources Act for many years. The existing act has many provisions that cause problems for both industry and regulators. The changes to the Petroleum Resources Act

will encourage investment in oil and gas development, creating jobs and wealth for the province.

As I said, Pembina supports the initiatives of Bill 52. Some of the changes which will have a significant impact on our operations are:

(1) Compulsory pooling and unitization: The current process is too lengthy and very costly. As a result of the time and expense involved, many pooling and unitizations that should proceed are not done. This results in delays of projects that would provide jobs and create wealth. Resources are wasted and ultimate recovery of reserves is reduced. Secondary recovery projects are not possible in some pools controlled by multiple land owners and operators without unanimous agreement, which is not always possible. Horizontal wells and other new technologies can only be used where sufficient lands are accumulated by one operator or agreement from all parties is obtained.

The new legislation will streamline and change the process of pooling and unitization when all parties are not in agreement. The mining and lands commissioner will render a decision without the lengthy, expensive process currently required before the Ontario Energy Board. This change will be welcomed by all parties involved, including both land owners waiting for their oil and gas assets to be developed and oil and gas producers with projects waiting to proceed.

Pembina will be able to proceed with a number of drilling prospects that were delayed by land problems. These wells will create jobs for contractors and provide royalty payments to land owners who have been waiting for these projects to proceed.

(2) Bonding: Well bonding is intended to prevent wells from being left suspended and unattended by an operator who subsequently is no longer available to abandon the well. The bond can then provide some assurance to the land owner that the well will be properly abandoned prior to the release of the bond.

The current bonding requirement is inadequate to protect land owners and the environment from the orphaned well, which might become a problem. The current bonding requirement is \$500 per well with the bond held by the MNR. There's a cap for operators with multiple wells.

Pembina, as the largest operator with the most wells in Ontario, is concerned that the existing system does not adequately protect the public. An orphaned well that leaves the impression of a slash-and-burn industry paints Pembina and other responsible operators with the same brush as the fly-by-night operator that caused the problem. Bill 52 will eliminate the existing inadequate bonding system.

Pembina and other operators are meeting to develop new bonding alternatives that protect the public and the environment while allowing responsible, healthy development of resources. At the same time, Pembina is concerned that a solution that is not well-thought-out could be very detrimental to our company, with over 900 wells which we operate. As a responsible operator, we want to be part of the solution but don't want to suffer irreparable damage from the cure.



The new bonding system should protect the public and the environment but must be similar to other jurisdictions to encourage investment in new wells, which will create jobs and wealth in Ontario.

(3) Bill 52 also proposes to make some changes to suspended wells. There are two sections, sections 7.0.1 and 7.0.2, being added as requirements to plug after the order of an inspector. The new wording would allow an inspector to order the plugging and abandonment of a suspended well if a well had no activity for 12 consecutive months. While section 7.0.2 allows an appeal of the order, any abuse of this power could be detrimental to our lake operations, where some wells are not tied in for production until threshold reserves are developed and economic projects proceed. In some cases wells are not produced for several years while the geological play is developed into a viable project.

Pembina feels the wording of section 7.0.1 could be limited to clause (a) where "the inspector is of the opinion that the well represents a hazard to the public or to the environment." Clause (b), which refers to the plugging and abandoning of a well if the well has had no activity for 12 consecutive months, could be eliminated while still protecting the public and the environment with the powers described in clause (a). If a well is suspended properly, it does not pose a risk simply by being inactive for 12 months. Wells that have no immediate market or observation wells can be safely left inactive for many years.

(4) Developing a trust, section 16 of the act: Pembina sees the need for a trust to fill some of the voids left as government reduces spending, and as a result some services that industry currently receives will no longer be available. However, as the largest operator, we should not be unreasonably burdened as the largest contributor to a trust that may provide disproportionately larger benefits to the small operator or to new competitors coming into the province.

Finding the best combination of fees for service, per well fees and/or revenue fees to fund the trust will be a challenge for industry. Pembina will work with others in the industry to find an equitable solution.

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(5) Creation of industry technical standards: Industry and the MNR are developing updated operational standards. As I said, Pembina has developed corporate standards and guidelines for our operations and has been assisting in developing similar standards for other industry members. Pembina sees the benefits of clear standards for the protection of the public, environment and employees. Clear standards also prevent duplication of efforts, and the costs of regulation and waiting for approvals can be reduced.

Duplication of the approval process can be avoided through clear identification of standards to be followed. In some cases regulation of facilities is duplicated by more than one department of government, and multiple approvals are sometimes required for the same project. Pembina is hopeful that streamlining or reduction of approvals can be accomplished through the use of standards that will be followed. Clear, concise standards will

protect the public and the environment while reducing the need for approvals for some routine operations.

The idea of a life cycle well permit will allow an operator to proceed with most operations on wells without prior ministry approval. As long as standards are followed, prior MNR approval would only be required for certain critical tasks such as the initial permit to drill and the abandonment of the well. Reducing times when the approval process is used saves both government and industry. Strict standards and increased fines for non-compliance will still protect the environment.

Key operations may still require inspection, but this can be accomplished through ministry-approved industry inspectors who, we believe, will deliver the inspection service cost-effectively.

In conclusion, these are difficult times, with rapid change occurring throughout society and in our own industry. Some changes are welcomed, and changes to the Petroleum Resources Act are well overdue. Although Pembina looks forward to the proposed changes, we have some concerns which we are actively working to address in the standards and practices that are being developed over the next few months. The ministry has been seeking the input of industry, and we feel confident our concerns will be addressed.

Pembina is investing in Ontario, creating jobs and prosperity for the people of Ontario. The changes to the PRA will encourage more investment in Ontario's oil and gas industry.

Accompanying me today are Alex Wilson, Pembina's supervisor of Ontario properties from our London land office, who is familiar with pooling and unitization issues; André Czychun, who is Pembina's Ontario operations manager — André has worked in our offshore operations for many years and has drilling and completion expertise; and Andrew Cantwell, a plant/facilities superintendent from our Port Colborne office, who has expertise in facilities construction and is familiar with Pembina's quality assurance and quality control programs.

I invite questions of myself or my colleagues.

**The Chair:** Thank you, gentlemen. We've got about two minutes per caucus for questions, beginning with Mr Froese.

**Mr Tom Froese (St Catharines-Brock):** Thanks for your presentation. Some of the critics and some of the opposition members — I know not all the opposition members feel that way, because I know them personally and they've told me personally that they don't feel that way —

**Mr Mario Sergio (Yorkview):** Who was that?

**Ms Martel:** Name names, Tom.

**Mr Froese:** Some of the opposition or the critics say that companies like yourself or your industry are not concerned about public safety. They feel that government has to control everything, be involved in people's lives and so on and so forth, yet we heard from the presentation from the Niagara region that companies, not particularly in your industry but who are involved in this bill, are very public safety-minded. They work with the regional governments or the municipalities to ensure that there's public safety.



I guess if I was sitting in your shoes, I'd be a little bit concerned about some of those comments from the critics or the opposition. I'd just like you to elaborate or get your opinion on those comments.

**Mr Boulton:** I think our company, and any other responsible company, has to protect the public. It's in our own self-interest to protect the public. We don't want to be open to lawsuits or liabilities and we want to be able to continue to operate for many years into the future. We're in this for the long term and it's important that we do things right. If we don't protect the public, we'll pay the consequences.

**The Chair:** Thank you, Mr Froese. Now equal time for those unnamed members of the opposition.

**Mr Michael Brown:** I found those comments rather interesting. I don't know anyone on this side who has said anything that suggested that we don't believe the industry has been responsible.

I'm concerned about looking at these recommendations which I believe give us some real food for thought, especially around the bonding issue and the fact that you're suggesting that it should be similar to other Canadian provinces and other Canadian jurisdictions. What's the problem? If we know what the other Canadian jurisdictions are, why can't we just do the same?

**Mr Boulton:** I think not necessarily just the Canadian jurisdictions but our competitors to the south: Michigan, Ohio and other areas that are even closer to us. How are we going to encourage investment in our province if our bonding is significantly different than other active jurisdictions?

**Mr Michael Brown:** That's what I'm asking you. Is there a pattern that's quite available to us of competing jurisdictions that would look very similar? What's the problem with adopting that? In your opinion, why hasn't the ministry taken that route?

**Mr Alex Wilson:** I think in the past the industry has recognized that the current level of bonding is inadequate in Ontario to look after an orphaned well. The current maximum level is \$500 per well on shore, with a maximum \$5,000 per operator. I think industry is looking at some kind of a bonding process that would reflect more the actual cost to plug the well in today's standards, with a review on a periodic five- or 10-year basis, to ensure that if for some reason the operator didn't plug the well, there would be a fund available to look after that.

**Ms Martel:** Mr Wilson, did you want to finish, because my question was also going to be what is the difference between the other jurisdictions and can we apply it here, if that would be helpful to you.

**Mr Wilson:** I think we can apply it here. The one thing we have to be careful of is that it's a very mobile industry and we don't want to create an environment that is detrimental to investment in Ontario. Other jurisdictions have bonds that are more reflective of the cost to plug the well in the neighbourhood of, depending on the area, somewhere between \$2,000 and \$5,000 per well, with a ceiling of somewhere between \$15,000 and \$50,000 per operator, regardless of the number of wells that operator might have within his jurisdiction.

**Ms Martel:** I have a second question around the change from now having the mining and lands commis-

sioner involved in the process: Can you give me some idea what the change is or changes are which will make that process more streamlined and, in your opinion, much more effective in terms of coming to some kind of resolution?

**Mr Wilson:** Currently, right now, if we're unable to complete a voluntary pooling or unitization matter, the only avenue available is an Ontario Energy Board hearing. It's an extremely long process. It's slow. The last unitization undertaken by Pembina and its partners took a full year of staff time, hearing time, legal interogatories back and forth on both sides. A year to us results in the loss of a drilling season. We're looking at a process that might expedite that down to a one- or two-month period of time, so that if we start a process in the spring, we will still be able to drill that well some time during that drilling season.

**Ms Martel:** Under the new process that is envisioned then, I am assuming the public still has some right to either be in agreement or have their concerns acknowledged by the commissioner.

**Mr Wilson:** It'll bring it down to a more informal level for the land owners, and I think they'll feel more comfortable with the process rather than being in front of the Ontario Energy Board and being represented by legal counsel.

**The Chair:** Thank you very much, gentlemen. We appreciate your input here this morning.

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#### STEBBINS PAVING AND CONSTRUCTION LTD

**The Chair:** Our next presenter is Gord Tanton, the manager of Stebbins Paving and Construction Ltd. Good morning. Welcome to our committee. The floor is yours, sir.

**Mr Gord Tanton:** Good day. We received this bill September 5. We are not a member of the Aggregate Producers' Association of Ontario. That's given me precious little time to address the issues that can affect my future in our company and my company's future. Stebbins Paving and Construction operates about 10 gravel pits in the greater London-401 corridor area. We have an asphalt plant. Our total acreage under licence or about to be under licence is close to 1,000. We produce close to a million tonnes of gravel a year. By no means are we a small producer stuck in the countryside and selling a few loads of gravel to the local farmers. We do not belong to the association.

Some issues in Bill 52 are very good; some of them need, I believe, a few more days spent on them or some consultation with people who aren't part of the greater Toronto area. I will quickly go through those sections that may affect my industry and others like mine. Everyone has a copy of the bill in front of them, I hope.

Section 1(6), abandoned pit and quarry fund: I need more information about that to be able to address that correctly.

*Power failure.*

**Mr Tanton:** That was a good question. There goes my information. I couldn't have done that better.

**Interjection:** You're in the dark, like the rest of us.



**Mr Tanton:** We need to see the regulations. Who looks after this fund? If there's a 10% amount of money being held back in this fund, will that cover the rehabilitation of a large quarry in the Niagara region or will my company in London have to subsidize the rehabilitation of a fellow aggregate producer if they're a bad apple or they decide to change their company name?

Subsection 2(1), the inspector as a non-MNR employee: While we believe that in certain areas of the province the industry is being served by too many aggregate inspectors, we believe that the final few remaining inspectors should be government employees. There already exists a very great inconsistency in the way the industry is handled. This varies from inspector to inspector and from area to area. This could only get worse if untrained, non-aggregate persons were appointed as inspectors.

Subsection 6.1(1), the aggregate resources trust fund: I need to know more about that. Is money coming back to our company? Can I make some future plans about hiring or equipment or buying properties based on refunds from that trust fund?

Section 6(1) on page 4 of the bill: We agree that in order to enhance resource development and streamline the process, some requirements must change. It's a good idea to move them to the regulations. However, what happens when the government might change, God forbid, some day in the future —

**Mrs Papatello:** I beg your pardon.

**Mr Tanton:** I can't put down my original statements here or say them — and another type of leaning government changes the rules very easily through regulation? Mr Cook was correct that perhaps the act can be changed now as easily as the regulations, but it still would be nice if there was some protection. If the government of the day felt strongly enough about their mandate, perhaps it should be in the act, where everyone has a chance to see it.

Subsection 11(1), application procedures: That's a very good idea, those changes there.

In subsection 11(6), at the OMB hearing — I will give written copies of this to the hearing afterwards — we need the word "only" about who is going to appear at OMB hearings. Only the applicant and only the people who have objected should be allowed to show up at an OMB hearing. Every Tom, Dick and Harry who gets signed in on a petition or whatever wants to show up and they waste our time and the chairman's time; they waste lots of valuable time. Only the people who are prepared to put up their name and willing to accept a share of the cost of the OMB hearing should be allowed to speak at an OMB hearing.

Subsection 12(2)(j), the section dealing with the applicant's history: This sounds great. The bad apples should not be able to get new licences. That just doesn't work. It goes against the charter, as far as I know. I'm not a lawyer but I don't think that's appropriate. If a site plan in the section 9 report, the environmental report, and the zoning is approved and only the past history of the operator prevents a licence from being issued, this will be challenged in court. Precedent is not a reasonable planning tool; perhaps a graduated licence system for

those bad apples. I don't know how to legally put it in place, but something like that has to be looked at. Also, it's too easy to circumvent this section by changing the applicant's name.

On a point of interest, the only issue I could find where character matters is a taxi licence, where a previous good character is important before you're issued a taxi licence in some jurisdictions. I hope we aren't going to be like taxi licences.

Payment to the trust: How much? We don't know. The lights didn't go out that time.

Page 11 on the bottom of Bill 52: We agree on removing "not exceeding six months" for the licence suspension. That is a very good section.

Section 15.1, annual compliance: We need to know if that's strict compliance or reasonable compliance. Right now we have a bunch of very good inspectors in the province and they use their heads. If we hire someone from off the street, or who knows what, some political appointee, he may go out there and try to make our lives miserable. They do not know the industry; they do not know our past history. We need to know if it's reasonable compliance or strict compliance. This would cost my company money if we had strict compliance, the opportunity to shut us down.

The wayside section: This has to be referred to in the act. That I believe was an omission in the bill. In section 23(3)(a)(i), on page 21 of the Aggregate Resources Act, there's a section talking about wayside permits. After (i) it says "or" — the first part is "project of road construction," that a wayside permit should be issued, and the other part is "an urgent project." I believe the "or" should be changed to "and." There are too many wayside permits being operated next door to a licensed gravel pit. I agree with Mr Cook of the Aggregate Producers' Association. The MTO contracts are large, by and large, and the better ones can be very profitable to the licensee who is here for the long term. Wayside permits are generally operated by a company that's in and out in less than a year. I spent \$100,000 licensing a property next door to a wayside permit and I lose the contract. That is not appropriate. I have to make money in order to hire people.

Section 32.1(1): The minister authorizes MTO to look after wayside permits. Perhaps that is correct, and most likely in northern Ontario. Along the Highway 401 corridor we don't need waysides.

The limitation extended to five years: I don't agree with that. To what benefit? I don't see the benefit in that. No one's memory is that good, and most likely it will be thrown out of court due to lack of proof.

Subsection 51(1), registered mail: Leave as registered mail, please. Do not go into normal mail. There's too much at stake here. If my report does not get into the Ministry of Natural Resources, my licence can be revoked; that's crazy. Under the new system there may be 400 licences per inspector. They're human too. They can make mistakes, and my documents can get lost. It should remain as registered mail.

Section 52, development permits: I agree with the intent, but municipalities will still try to strong-arm something out of a pit operator. We suggest the wording



be changed from "for which a licence has been issued" to "for which a licence is being applied for." I have personally been required to build many kilometres of road or else my zoning would not be addressed at a township meeting — not passed, but I will never get the chance to have a township meeting unless I pay money. You should ask whose name I put on those cheques.

Section 53, items moved to the regulation: What are they again? I need to know that answer.

Thank you. Any questions?

1110

**Mrs Pupatello:** Thank you for coming today. You certainly have a lot of opinions regarding this bill and other things too.

I'd like to ask you how you might arrive at understanding that there would be refunds to your company depending on how the trust fund is set up, for what purpose you would receive a refund.

**Mr Tanton:** It's all hearsay. I may have between \$500,000 to \$1 million on deposit with the province of Ontario as rehabilitation security. I believe some of that is to be held back to ensure that bad apples' pits are rehabilitated and the remainder is to be refunded to the companies. Those are the rumours I am being told.

**Mrs Pupatello:** In the area of privatization of inspectors, do you have any idea or have you heard rumours of what your cost would be? I understand that you in essence would be funding the privatization of inspectors. Do you see a conflict of interest at all if those inspectors are in effect being paid by the industry?

**Mr Tanton:** I have heard terms and been told up to \$1,000 per pit, so yes, that would cost us some money. It may not be a bad idea for honourable companies such as ourselves, Stebbins Paving. We have a very good working relationship with natural resources and all our municipalities. I do not take 10 years to get a licence; I can get a licence within six months to a year in general because everyone knows who we are, where we are and that we're there for the long haul.

**Mrs Pupatello:** So you think your cost might be \$1,000. Also, have you written the cheques to those private individuals in those municipalities?

**Mr Tanton:** Those people were no longer employed by those various municipalities after considerable objections were made.

**Mr Sergio:** If there are changes in the proposed legislation, would you like to have a chance to make some further comments?

**Mr Tanton:** Yes, because there's an awful lot of aggregate producers that aren't members of the Aggregate Producers' Association. It's a very good organization, but we are not members. We may have our own concerns.

**Ms Martel:** I think that in support of the presenter who has come, we should get some clarification from the ministry around the rehabilitation aspects, because my read of the new act shows that "Sections 50, 51, 52, 53 and 54 of the act are repealed and the following substituted," and as I understand it, the province has, under sections 53 and 54, already a process of refunding on an annual basis rehabilitation security fees to licensed operators who have demonstrated acceptable, progressive and sequential rehabilitation of their sites. So my read would be the same as the presenter's, that there is a change in

this section, that all the money will be continued to be held in trust and there will not be a refund. I think if we can get an answer from today, that would be helpful.

Just for my benefit, because I don't understand a lot of this very well, can you go back to your concerns around "an urgent project" versus "a project" when you talk about wayside issues?

**Mr Tanton:** That issue has come up many years. The only urgent project I can personally think of is when a dam down by Chatham on one of their dikes happened to wash out and they wanted to run into the nearest farmer's field and get clay or whatever to make the dam. Otherwise it's not needed.

**Ms Martel:** You agree with the change that the minister is proposing, to take the word "urgent" out?

**Mr Tanton:** The word "urgent" shouldn't be there but the word "and" should be added; "or" should be replaced with the word "and." Too many times licensed gravel operators lose out on a contract to a wayside permit and the big Toronto companies can come down, operate a wayside pit next door to my licensed operation, treat the environment like dirt, get charged by natural resources and then leave again. That is not appropriate.

**Mr Klees:** I appreciate your presentation and some very practical recommendations I will certainly be looking at. I also want to confirm for you that when we have the draft regulations, the intention is that we have a broad consultation with all stakeholders. Certainly you'll have an opportunity at that point in time to have some input, and we look forward to talking to you at that time.

I want to clarify something with regard to a comment made by Mrs Pupatello regarding the privatization of inspectors. There is no intent at all under this legislation to privatize inspectors with regard to the Aggregate Resources Act. There will be self-compliance. In other words, we're looking to you as the operator to complete annual compliance reports, and there will continue to be inspections by the ministry on a regular basis, just for the point of clarification there.

With regard to your comments around the trust fund, yes, it is contemplated that there would be refunds to the operator. As you're probably aware, the province is holding some \$60 million in a trust fund at this point in time and that money is on deposit. As an operator, that's not available to you. I understand you're carrying it on your balance sheet, but it's not available to you. In many cases there is much more revenue on deposit than would be needed for rehabilitation.

The intent of this part of the legislation is to bring some practicality to the issue of this fund, to move it into the trust for administration and also to streamline it. Right now, I think we have in the area of 4,800 separate accounts that are being tracked for each individual business and it really is a very difficult thing to administer. So with regard to transferring this into the trust, we feel that not only will we accomplish efficiency but we'll also be able to give back by way of refund to the operators the excess that is deemed not to be necessary to be held within that account. At this point in time, again, this is in the discussion stage, but we anticipate retaining between \$5 million and \$10 million in that fund to ensure that there will be sufficient revenue to look after the rehabilitation, as you mentioned earlier.



I'm interested in a comment you made with regard to strict compliance versus reasonable compliance. I'm just a bit puzzled in terms of what you were intending by the comment that if you were held to strict compliance you'd be put out of business. Can you just clarify that for me?

**Mr Tanton:** I wrote eight pages of philosophy about gravel pits before I came here. I threw them all away. My opinion essentially with the gravel business is, I manufacture a product by digging a hole — a 200-acre hole, but digging a hole — in our backyard. What I do between the fences of my property should be my business and no one else's business, as long as I do not destroy my neighbour's quality of life or his water or his air. That's my philosophy and a lot of other companies' philosophies.

When we prepare a site plan or a blueprint for a gravel pit, we are asked by the act and the natural resources inspectors to put every possible item that you could ever possibly want to know about on those blueprints. A shrub is not a shrub, it's a dogwood shrub, this kind of information. There are inspectors, and I've run into them, who would require me to do a site plan amendment costing \$500 to \$1,000 each time to change the species of shrub located within my fence lines on our property. That does not affect the way I operate a gravel pit.

**The Chair:** We appreciate your coming forward this morning with that input. Thank you.

**Mrs Papatello:** Could I ask a question of the —

**The Chair:** Ms Martel was first.

**Ms Martel:** It's on the same point.

**Mrs Papatello:** Could we ask a question of the parliamentary assistant, if by the end of today we could have an answer: Would there be an amendment coming forward, then, to the bill that would remove section 2, subsection 4(1) of the act, "The minister may designate in writing any person as an inspector for the purposes of this act"? Would that be amended and removed?

**Mr Michael Brown:** I think we have that undertaking already.

1120

**Ms Martel:** Mr Chair, on the same point if it would be helpful: The minister could return to the original wording that's in the act that we are amending, which makes it very clear. It says in subsection 4(1), "The minister may designate in writing any employee of the ministry as an inspector for the purposes of the act." If the minister would like to revert back to that, I think we can respond to the concerns and know that this is not going to be privatized.

**Mr Klees:** Mr Chair, I'm prepared to make a brief comment on that. The reason for the wording is to allow us to do what we indicated in another part of the act, and that is to delegate the authority for inspection to another ministry. In this particular case, we've indicated that we would be delegating responsibility to the Ministry of Transportation. The original wording of the act would not allow us to do that, and that's the reason for the wording as it is.

**The Chair:** I'm not prepared to entertain a discussion between members about the act. We're here to listen to the people of Niagara Falls. We will do that, and then we can have all the discussion we want among ourselves about the bill.

## TCG MATERIALS LTD

**The Chair:** Our next presenter is TCG Materials Ltd, Kevin Mitchell, property manager. Good morning, sir, welcome to our committee. Should you allow time for questions in your 20 minutes, they would begin with Ms Martel.

**Mr Kevin Mitchell:** Good morning, Mr Chairman, committee members, ladies and gentlemen. The reason we are appearing here this morning is to express our general support of Bill 52, which we believe will improve the Aggregate Resources Act and consequently the aggregate industry.

TCG Materials Ltd is a subsidiary of Needler Group Ltd. The company was formed in 1956 in the city of Brantford and went public in 1987 on the UK Unlisted Securities Market, and on the Toronto Stock Exchange in 1992. The company produces aggregate, asphalt, concrete block and provides construction services in southern Ontario. In upper New York state we produce aggregate, concrete block and paving stones.

TCG employs 210 people in Ontario. TCG operates 26 licences on about 1,100 hectares located in London, Woodstock, Brantford, Aberfoyle, Fonthill and also in New York state. We try to be as active as we can be in communities with projects through volunteer tree planting, rails to trails projects and also allowing the general public to traverse our lands along the Grand River on a public trail.

TCG is committed to rehabilitation, conservation and stewardship of the natural environment in which we operate. This is carried out through mechanisms such as corporate policies, employee training and awareness and volunteer and mandatory monitoring programs.

I've been employed at TCG since 1989. I am responsible for property, regulatory and environmental issues for all Canadian and US properties. To date, I have personally completed 20 compliance assessment reports.

TCG has been an active member of the APAO for more than 25 years. The comments and opinions we are presenting this morning are based on TCG's experience as an operator.

The Aggregate Resources Act has been a dramatic improvement over the Pits and Quarries Control Act. We have been regulated by the Aggregate Resources Act for close to seven years now, and although the act is very good, there are sections which are not working as designed and they must be improved. Generally speaking, we support Bill 52, as we feel this bill will improve the sections of the Aggregate Resources Act that currently need to be addressed.

We have read the proposed Bill 52 and believe the bill will (a) establish an effective regulatory partnership between MNR and the aggregate industry; (b) streamline the licensing process by eliminating duplication, red tape and focusing objections to specific issues while regarding environmental issues; and (c) create a more efficient system which will free up valuable MNR staff time by removing data entry and cashier duties to allow staff to concentrate on licence applications, reviewing monitoring reports and checking compliance assessment reports.



TCG's experiences under the Aggregate Resources Act has included four licence applications. Two of these applications resulted in Ontario Municipal Board hearings. In both cases the application was to expand an existing operation with no below-water extraction. Five years after starting the process we were successful in obtaining a licence. We believe that Bill 52 may have prevented at least one of the OMB hearings and reduced the five years to something reasonable. These are the improvements the aggregate industry will welcome.

It is extremely frustrating to call the MNR office to find out the status of a licence application or a monitoring report review and learn the inspector has not had the opportunity to look at your report because they've been entering data into a computer for two weeks or stuffing envelopes for the licence fee. Their time is too valuable for these clerical duties. We need them in the field or working on approvals and ensuring regulation in the industry. The proposed trustee handling the cashier-type duties for licence fees and the abandoned pit and quarry fund will let MNR inspectors do the job the public and industry need them to do.

One of the low-key proposed changes in the bill — and I use "low-key" in that they're not things that we have heard people talking about — might be that MNR will pass on complaints to operators. We think this is a good idea. We believe complaints that we have with our neighbours will be resolved very quickly and efficiently.

Industry is making a large financial commitment to fund the trustee, who in turn will distribute the funds to rehabilitate abandoned pits and quarries. This is a multi-million-dollar commitment to improve the weak members of our industry. This seed money is cash that will be taken from our rehabilitation deposits, which was originally to be returned to each operator as rehabilitation was completed.

The main item we'd like to address this morning is self-monitoring. I would like to point out that this is self-monitoring, not self-policing. I must admit, the first time I heard of the proposed industry self-monitoring and the self-compliance assessment reports, I was, at the very best, sceptical. Who had ever heard of industry, and especially the aggregate industry, which is out in the public view at all times, checking up on itself to make sure it is in compliance?

When the assessment reports came in, the detail seemed to be overwhelming. In July I began conducting assessments with our pit operations supervisors, and one half-day into the project I made a 180-degree turn in my opinion. The form specifically requires items to be reviewed for compliance. The item is either yes, in compliance or no, not in compliance. There are no grey areas. It is either yes or no. It took a long time to complete each site but it was well worth it. It is an excellent exercise to go through. I would say we are a better operator for doing this assessment.

TCG is a public company, and non-compliance puts our board of directors and shareholders at risk. Here are a few reasons I am confident it will not just work but also be effective in creating an efficient annual inspection program.

(1) Annual inspections must be carried out or the licence will be suspended. Operators cannot afford to be closed down during the construction season. A simple checklist in the MNR office will identify those who do not submit a report. End result: Annual inspections will be carried out and can be checked at MNR at any time, an improvement over the current situation. At the same time, MNR remains credible in administering the legislation.

(2) It forces the operator or his consultant to examine the licence, the site plans and the licensed property annually with a standard list. The operator indicates compliance or non-compliance on the form, a deadline for correcting infractions, and sends it to MNR. It doesn't get any more black and white than this. End result: Operators must bring their sites into compliance in a reasonable time or face stiff penalties. The annual reports will give MNR a list of items to check at the site, which will speed up its review and allow it to focus on troubled problem sites.

(3) Consistency: All areas and operators are using the same music sheet. End result: All sites will be reviewed by the same rules, and there will be no grey areas to let someone use their discretion.

(4) The industry inspection is much more rigorous than any previous inspections, as there is no room for interpretation. End result: More comprehensive annual inspections.

End result: Every operator will know whether they are in compliance, and if they choose to continue to operate without bringing their site into the standards of the law and their licence, they will face strict penalties. Those operators who choose to falsify their reports may get away with it for some time. However, if it gives them a competitive advantage over an operator in compliance, MNR will hear about them. Most important, MNR is still open for business and with Bill 52 they'll have more time to find those operators who are not in compliance.

I see two disadvantages to the system of self-monitoring:

(1) I believe it will be perceived by some that industry will take advantage of the system.

(2) This program will require industry to pay for its own inspections and it takes, plus or minus, one day to review a licence and complete this review. This program will be costly and time-consuming to industry.

1130

I believe the benefits far outweigh the negatives. An example of how efficient this partnership can be: On July 17 we mailed our compliance assessment report for our Woodstock pit to MNR. On August 20 we received a response from MNR. The MNR inspector had reviewed our report, visited the site and commented back to us. The MNR inspector indicated the TCG review had minimized the time he needed to complete the inspection work normally done. This example illustrates how well the partnership can work.

Give the industry a chance. I believe the partnership between MNR and the industry will work. The industry is qualified and capable of carrying out the self-monitoring, and with MNR's supervision the program can be a success.



I would like to thank you for the opportunity to present this morning. Bill 52 is vital for the future of the aggregate industry. I would be pleased to answer any questions.

**The Chair:** Thank you, Mr Mitchell. We have three minutes per caucus, beginning with Ms Martel.

**Ms Martel:** Thank you for your presentation. Let me go back to the issue of self-monitoring around the penalty in particular, and perhaps you can clarify this for me because I'm not sure. Earlier Mr Cook talked about serious penalties for serious contraventions, including a penalty around (a) failure to produce a report, (b) to falsify information, or (c) to not be in compliance by the time line the operator outlined. Can you just advise me again? I should know this and I'm sorry that I don't. Are those penalties that appear in the bill right now or are those penalties that the association is proposing to MNR?

**Mr Mitchell:** It's my understanding they're in the bill right now.

**Ms Martel:** Tell me about your two OMB hearings and how it is that you believe Bill 52 would have reduced at least one of those to being a non-issue, because it's not clear to me if that's because of the process or the intervenors or what exactly is in the change now that would have lessened that problem for you.

**Mr Mitchell:** The one OMB hearing definitely I don't believe could be resolved. There were just too many items and too many projects on the go at the same time, too many players. The other one was, there were a couple of residences along this one road that were quite some distance away and there was concern that their property values would decrease as a result of our operation. In the interim, properties have been sold and developed along this same area, and it just seemed that one group was doing one thing and another group was doing a different thing in the same area. We believe that would have been resolved through this process because the bill would look at the items that should be addressed and validate those conflicts.

**Ms Martel:** Sorry, I'm not quite clear. Is it because you thought that it was frivolous as a complaint?

**Mr Mitchell:** Yes, we did, and that is our understanding, our belief. It may in fact not have happened, but definitely Bill 52 will help the process.

**Ms Martel:** I thought under Bill 52 the board still has to determine whether or not there are frivolous or vexatious issues that come before it, so that you might still end up in that process.

**Mr Mitchell:** That's correct, but I think it's more specific in what is required by an operator on their licence application. When the objections are filed with the ministry staff, the minister can look at those objections and see if they are in fact frivolous. That is our understanding in any case.

**Mr Klees:** Thank you for your presentation, and also we want to thank you for your willingness to participate in this pilot project. Obviously the results from your assessment were very positive, and I was interested in your comments, which I am assuming are your personal observations with your experience in the industry, of what the implication of this self-compliance is going to

be to MNR staff and inspectors in the field. You indicated that in your opinion this would actually allow MNR inspectors to be much more focused on their inspection responsibilities. Could you just elaborate on that for me? What are you basing that assessment on?

**Mr Mitchell:** When you do a compliance assessment, you're required to walk their entire property to make sure that the fence is 1.2 metres high. That takes a long time on a 100-hectare site. Those things the MNR inspector can come in and check very quickly. I think what it does is it gives them a list, and if you are in non-compliance in any area, they have that list. Generally those are some of the more critical items, and they can look at those very quickly. If you have said you're going to speed up the process by doing these things at a certain time, they come out and see that. They quickly check a couple of other areas, and it reduces the time. They don't have to be in the field looking at absolutely every item every time they're out there because they know; they have a report that says you've done these things and they can quickly check up on those things.

**Mrs Lillian Ross (Hamilton West):** For many of us on this committee, we're breaking new ground, so to speak, reviewing this act. You commented with respect to filling in the compliance report and having an inspection of the property: July 17, and by August 20 you had received the report; it had been reviewed and approved. This was with the new inspection procedures in place. Prior to that, how long would it have taken for an inspection to have been approved?

**Mr Mitchell:** I'm not an MNR inspector and I never have been, but I believe it would have taken them the same length of time it took us, which was the better part of the day, to actually be in the field walking fence rows and that sort of thing, and then you have to sit down and spend time reviewing the site plans, looking at the licence, finding out what the conditions are, going back to the tonnage and hectareage reports, making sure the disturbed hectareage is what they said it was, if the licence fee has been paid. All of those things have to be done, and I believe it has drastically cut down on the time that they have to do it because you're looking at so many different locations, not just the field.

**Mr Michael Brown:** I'm very interested in this compliance report and the standards used to arrive at what the compliance is. I think that's one of the issues that concerns many of us, that we have no way of knowing what the regulations are going to require under this act in terms of compliance. I was wondering if you have some views on that. When the regulations come out, they may be different than the compliance requirements you are now having to meet. Do you have some views on how the public could be assured that these are the correct compliance standards for you to be filling out your report?

**Mr Mitchell:** Yes, I do. At this time, when we don't have the regulations in front of us, we can appreciate that industry, APAO and the government work together to give us very strict standards that we can work with, but what the form does is it asks you to look at things that you said you were going to do in your licence application and on your site plans. They're very specific: fencing,



locations of roadways, gates, pit height, where you're going to dig, how you're going to dig, when your reports are to be filed. All of those things are yes and no answers. You look at it in the field. It's either yes or no. "Have you submitted a report?" Yes or no. So I don't think the regulations will affect how we're assessing the sites. I think what they will do is make some of the licence applications down the road a little bit more focused and possibly that much better site plans and licences.

**Mr Michael Brown:** If you go to standardized regulations in terms of requirements, that is obviously an advantage in many ways. The down side of that is that you are always only requiring the minimum; you are never asking people to pursue excellence, to be the best possible. There's no requirement to do a little bit better job than the absolute minimum that the standards and regulation require. Could you help me with that? I'm wrestling with it myself.

**Mr Mitchell:** I think we have to have comfort in that the minimum standards are going to be environmentally conscious. They are going to cause the operators to be efficient and take regard to neighbours and the environment. I think, as in any industry, if you are operating beside someone, you don't want them phoning you every day or causing the MOE inspectors or the MNR inspectors coming out at all times, and I think business in general goes beyond where it needs to go to make sure that as a good corporate citizen you go above and beyond what you're going to do.

**The Chair:** Thank you, Mr Mitchell. We do appreciate your coming forward this morning with your input.

**Mrs Pupatello:** Mr Chair, I'd like to table a request. Could I ask if by the end of this process you could attempt a rewrite of section 2, subsection 4(1), designation of inspectors, that would more accurately reflect what the parliamentary assistant was intending, although it is not now in the bill? That would be an amendment that restricts inspectors to being a ministry employee either of the MNR or the MTO. That is not reflected in the bill. Could a rewrite and an amendment be produced by legislative research?

1140

**The Chair:** That's a question, Mrs Pupatello, for legislative counsel, and they will not be in attendance until we get to clause-by-clause.

**Interjection:** I could pass that along.

**Mrs Pupatello:** Thank you.

#### REDLAND QUARRIES INC

**The Chair:** Our next presenter is Colin Wobschall from Redland Quarries Inc. Good morning, sir. Welcome to our committee. The floor is yours.

**Mr Colin Wobschall:** Good morning, Mr Chair and members of the committee. I do not have a written statement for circulation. I will be speaking from notes, but I do intend to follow up with a written submission.

I'm employed with Redland Quarries Inc, whose head office is in Hamilton, Ontario. We have quarry and lime plant operations in Ohio, Niagara Falls, New York, and we have two quarries in Ontario, one here in this region

and a larger one up in Flamborough, Ontario, which we actually call the Dundas quarry. I am the environmental engineer — that's my title — for the Dundas quarry, which actually consists of two separate quarries, north quarry and south quarry, a stone processing area and a lime plant. We have been mining in that area for about 100 years now.

Dundas is the second-largest quarry operation in Ontario. We produce about three million metric tonnes a year over the past five years. We have about 140 employees, and we are one of the largest taxpayers, if not the largest — I'm not sure — in the municipality.

Although my title is environmental engineer, I also wear a few other hats: quality assurance manager, health and safety coordinator. One of my responsibilities is to ensure that the operators and management are aware of all environmental, health and safety, and mining legislation, and that we are in compliance with all that legislation. So I am aware of some of the duplication that goes on between the different pieces of legislation. We have been an active member of the Aggregate Producers' Association of Ontario for over 25 years.

I am here to express general support for Bill 52. I will be rather brief and my comments will be directed primarily to the self-monitoring or self-assessment aspect of the bill. That's the one I know most about. That's what I have participated in myself. I just wanted to mention some of the advantages that I think the self-monitoring will give us.

The operators will be more aware of the requirements of the site plan. A lot of operators nowadays were not operators when the site plans were put together back in, in our case, 1992. Our quarry manager was actually the maintenance manager at that time. I have been to three training sessions now put on jointly by the aggregate producers and the Ministry of Natural Resources on self-assessment, how to do it, and I've done one for our site. I've sat down with our quarry manager and our operators and other management to explain, go over the report, so people are now more aware, more cognizant of what is really required under the site plans.

We used to depend on inspectors to come in and inspect a property. They didn't do a very thorough job of it. They would leave a report and then go home, and if we were out of compliance in any area that they discovered, then of course we would get in compliance. So we used to depend on other people telling us whether we were doing it right or wrong. Now we have to know ourselves whether we're doing it the right way or not.

Now we, and eventually I hope the public, will know that we will be, if not now, working in full compliance with site plans, which we think will add a great deal of credibility to the industry. Right now, we get a lot of bad press. The inspectors can now concentrate on the operators who have been giving the industry a bad name by ignoring legislation, including following the site plans. Overall industry compliance will be greatly enhanced, in my opinion.

Another advantage of self-monitoring is the fact that a historical file of compliance assessment reports showing non-compliances or in compliances and corrective action will make it easier for an operator to show that he's been



a good operator in the future when he applies for a new licence. Right now we don't have such detailed documentation of compliance and being a good working operator.

As with all government agencies, enforcement of the regulations seems to differ from office to office, region to region, and it includes natural resources, environment, safety, because of the discretionary powers of these inspectors. We as operators do not have discretionary powers; we have to be in full compliance with this new piece of legislation. I feel good about that because everybody will now be operating under the same rules. This is very important in our competitive marketplace.

I personally have some concern when I read in the press, and I've read it several times and I've heard people talk about it — they refer to letting us self-regulate ourselves and we cannot be trusted. We recognize this is not self-regulation. The Ministry of Natural Resources is the regulator; the inspectors are the policemen. We are simply self-monitoring. I don't think a lot of people really understand that we have been self-monitoring for years in our industry and have been doing a very good job of it.

Under the Ontario Water Resources Act, we have a permit to take water, and any operator who takes, I think it's 50,000 litres a day of water from the water table must have a permit to take water. The conditions of our permit says that we must monitor the level of the groundwater in monitoring wells, we must monitor the quantity and quality of water we are discharging from dewatering sumps and putting offsite, we must monitor the quality of the groundwater — we do that ourselves; the inspectors don't come in and do this — and we submit an annual report to the Ministry of Environment and Energy.

We have similar self-monitoring under certificates of approval under the Environmental Protection Act and the Ontario Water Resources Act. Those quarries that have cement plants or lime plants associated with them, as we do, self-monitor under the MISA regulation for certain criteria, certain parameters. We self-monitor; we submit the reports annually, so this is not something new to us. I'm not aware of any problems in our industry created by self-monitoring under these pieces of legislation.

In short, in my opinion, self-monitoring will be a good thing for the industry because it will result in enhanced compliance with legislation throughout the province, it will clean up and perhaps get rid of the bad apples, as we call them. They give our industry a bad name. Eventually, it will result in a much improved public perception of the aggregate industry.

With respect to licence application changes, I haven't had any personal experience with those. We have not applied for a new licence during my eight years with the company, but being an active member of the association and sitting on a committee there, I have heard a lot of what we call horror stories about delays and expenses in getting licence applications. Just from what I hear, I realize that we do need some streamlining here, and I put my trust in the association to work with the government on streamlining this process. I generally support Mr Cook's position on this matter and the association's position.

From what I know about the rehabilitation security system, the abandoned pit and quarry fund and the proposed aggregate resources trust — and I admit, I don't know a great deal about it, but I've read Bill 52 and I've read the association's legal opinion of the different parts of it — again, I have to support the association's position in these areas.

I want to thank you very much for giving me the opportunity to speak here today. I'd be glad to try to answer any questions you might have.

**Mr Klees:** Thank you very much for your presentation and your comments. I'd like to focus briefly on your experience with the self-monitoring to date. In your opinion, were the standards under which you were doing the self-monitoring more stringent than the standards that perhaps, in terms of practicality, you've been operating on to this point?

**Mr Wobschall:** I'm not sure what you mean by "more stringent." Some of the things we have to do are very impractical, but that's our own fault, because back when we had to put site plans together — and I was not involved in that process, but my understanding is, I know there was a checklist that the ministry circulated to everybody. Some people put down too much detail in those original site plans. Instead of saying that vegetation will be a mixture of trees and shrubs planted along the west boundary, some people specified the type. As a matter of fact, at our Queenston quarry down here, there's a drawing showing what the shrubs are going to be, how they're going to be planted, the hole size, the type of soil in there, the type of fertilizer and, technically speaking, if they didn't follow it, they have to come up. But we're hoping to get what we call a minor amendment, to eliminate that drawing. It's just straightforward.

There's a lot of stuff there that we do have to do which I don't feel is really required. Unlike a previous presenter here, I just want to point out that most of the industry is not of the philosophy that what we do within our fences is nobody else's business.

**Mr Klees:** In your opinion, will this system result in better compliance than has been the experience to date?

**Mr Wobschall:** Of course, because a lot of operators don't even know what's on the site plan. Now we have to know, and by submitting these reports, we have to be in full compliance with our site plans — not nearly full compliance, but full compliance.

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**Mr Klees:** And the industry's aware that under the current system, some 40% of all sites have failed to have an inspection for a number of years? Are you aware of that?

**Mr Wobschall:** I'm aware of that, being a member of the aggregate producers, yes. Even when we get inspections, they're not thorough.

**Mr Klees:** With the annual compliance report, certainly a number of those sites that perhaps haven't been inspected for a number of years will now, overnight, have to come into compliance. That obviously is going to put some stress on the industry. How do you feel the industry's going to deal with that?

**Mr Wobschall:** I can only speak for myself. It's no problem for us, because I completed our self-assessment



report and there are two or three minor things on it. It won't cost any money for us, but I know it's going to be very stressful for some of the other operators, perhaps the smaller ones who have not been following the site plan. They're going to have a lot of difficulty, a lot of expense to get back into compliance. My understanding is some of the smaller ones may even just fold up. That's what I have heard. But once they get in compliance, there will be no stress at all; it's just a matter of maintaining it a couple days a year.

**Mr Sergio:** Thank you for making a presentation. As you said, you are wearing many hats, and we appreciate the various comments that you have made. But you also said you have general support for the bill as it is presented. The first presenter I believe did say he would like to see the reform of the OMB and the elimination of all the appeals to the Ontario Municipal Board. How would this better serve the industry and the public?

**Mr Wobschall:** As I said earlier, I have not been involved in a licence application myself. I do not want to speak on behalf of the association on that. I don't know from a personal point of view.

**Mr Sergio:** Okay. I have the perception that you still have some concern with many areas of the bill as it stands now.

**Mr Wobschall:** The only concern I have about what I know about the bill now — and as I said, it's the self-assessment part that I know most about, because I've put it into practice. The only concern I have now, and it's been raised here before, is what is going to be in the regulations. I only put my trust in the association when they say they have been promised that the government will work very closely with the association on development of these regulations.

**Mr Sergio:** The industry people generally don't trust politicians and whatever comes from the government. Would you and the industry as well like to have an opportunity to see what really the final legislation proposal will entail, and would you like to have the opportunity to have further comments on that?

**Mr Wobschall:** Oh, I would love to, yes. By the way, I have a falling down here; I trust everybody, even politicians.

**Mr Sergio:** Do you want a question? Do we have time?

**The Chair:** You've got a minute left in this round.

**Mrs Pupatello:** I'm sorry, I did want to make a comment that I was happy to hear, towards the end there, in your questioning or answers that your philosophy was not the same philosophy that had been shared earlier with us. I appreciated that comment.

**Ms Martel:** Thank you for your presentation. One of the points you made with respect to public perception I think is an important one for this committee and frankly for your industry. If people perceive that there are bad apples and they are overtaking all of the good operators, then that gives a bad name to everyone.

One of the real difficulties I have with this bill is how much of the very important details that the public will want to know about are in fact left to regulation, where there will be no legislative scrutiny, where there will be no input like we have with this committee right now,

where in fact it will be done by cabinet, we hope in consultation with the broadest numbers of stakeholders, although we don't know who they will be yet, but it will not be done in a process which is open like this one.

Let me give you some examples: All of the requirements for the site plans for either class A or class B licences used to be listed very clearly in the act. They are all taken out; they will now be done by regulation. All of the requirements around the report, which accompanies the application for a class A licence, used to be in the act; it will now be taken out and done by regulation.

There's a whole other section in the act that talks about conditions which are placed on operators who have aggregates that they take out from under water and all of the fish habitat protection, conditions that are placed, that's taken out of the act. That's put into regulation.

So you can see that the concern we have is how much of this is going to be done, in essence, behind closed doors without the benefit of public scrutiny and public comment.

I wonder if it does not bother you, as a member of the industry which, from all the accounts you have given us, goes above and beyond whatever the legislative requirements are, that so much of this bill is done in that manner and that the public, which deserves to be assured that things will be up front and aboveboard and that the highest environmental standards are to be met, doesn't have a way to have access into that process and we, as MPPs, don't have access to that process either.

**Mr Wobschall:** I would rather there was a forum such as this to review what the regulations are going to be.

**Ms Martel:** We have been concerned that the technical documents that will flow from all of this have not been available to the public either and have not been available to us as MPPs. I wonder if you can comment as to what the public perception is then if even the technical documents upon which a lot of this is based have not been available for our viewing either, or for your viewing for that matter.

**Mr Wobschall:** I'm not too concerned about that from the public perception point of view because, as I said, I'm familiar with all the applicable environmental health and safety legislation, and very often the regulations come out without public input, and for the most part I accept them. There are a lot that I personally disagree with but do it anyway, but I'm not sure that the public has any great good or bad perception about these other regulations. I'm not sure why they would about this one.

**Ms Martel:** I guess the regional municipality this morning expressed some concerns about, obviously, their lack of information around some of these issues, and it sounds like they have a good relationship with all of the companies but would like to be very much assured of what the meat on the flesh is, so to speak, because it's not here. I suspect other municipalities that have licences, and there are about 700 of them, would probably feel the same way.

**Mr Wobschall:** Yes, I do not disagree with you, but when I speak about public perception, I'm talking about the people up the road, the neighbours, the true public out there, not the municipal councils.



**The Chair:** Thank you, sir. We appreciate your coming forward this morning and giving us your input.

The next presenter is Sarah Lowe, property and resource manager for Dufferin Aggregates.

**Mr Klees:** Might I offer a point of clarification for the committee while the next speaker comes forward? On this last point that Ms Martel made, she characterized the regulations as being drafted or prepared behind closed doors. I want to state again, as I did at the outset of this hearing, that the regulations will be circulated to all interested stakeholders for input. I do not want this committee or the public to be under the impression that those regulations will not be circulated and that we will not be inviting comment. We will be.

**Mr Michael Brown:** I would just ask that the parliamentary assistant circulate them to this committee now. That was done under the forest sustainability act. Acts like this that are just shells with great permission to the minister or the ministry — the standard procedure on such acts, which are very important to the people of Ontario — they deserve the scrutiny of MPPs. I don't think under what Mr Klees has suggested — he's suggesting that the Legislative Assembly of Ontario review these regulations. Cabinet will make the decision behind closed doors, that's how it will be. You will decide who the stakeholders are. People who are elected to do this have no opportunity to have input.

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### DUFFERIN AGGREGATES

**The Chair:** Good morning and welcome. You have 20 minutes. The floor is yours.

**Ms Sarah Lowe:** Thank you very much. My name is Sarah Lowe. I'm the property resource manager for Dufferin Aggregates, and I'm very pleased to have the opportunity to speak here, although we don't have any operations in the Niagara region.

I'm here to give general support to Bill 52. I've been employed with Dufferin Aggregates since 1993, but I've been involved with the industry for 20 years, initially at the University of Guelph and then as an employee of the industry since 1980.

My experience with the industry includes management of the approvals process for several new licences, including several OMB hearings.

Currently my responsibilities with Dufferin Aggregates is for the planning and licence approvals, for land management and rehabilitation, and for community and government relations. Those are the three main hats that I currently wear.

Dufferin Aggregates is a division of St Lawrence Cement, and St Lawrence Cement is a major cement producer in eastern Canada and the United States. The Ontario division, which employs about 2,000 people, supplies cement, aggregates, concrete and road construction services in Ontario through its various units.

Our affiliate, Dufferin Aggregates' affiliate, Dufferin Construction, is a member company of the Canadian Highways International Corp, which is currently building Highway 407 under partnership with the government, a

new, innovative way of partnership, a new way of doing business.

We supply high-quality aggregate mainly to the GTA, the greater Toronto area, including the 407, from our Milton quarry which is a limestone deposit in the region of Halton. It's a very large limestone quarry, probably with the highest production in southern Ontario. We also have sand and gravel operations in Aberfoyle, which is in Puslinch, Wellington county, and in the Mosport area in the county of Durham.

We employ over 150 salaried and hourly staff and we reckon that we inject over \$50 million directly into the economy of southern Ontario.

A key principle of our company is that we involve long-term partnerships and consultation with the local stakeholders. I've brought a brochure to illustrate that with my presentation this morning.

We're really proud of the awards that we have received. We are particularly proud of one from the Ontario Heritage Foundation, which is called the Friends of the Escarpment Award, an unusual award and we cherish that very much as a producer on the escarpment.

In summary, we are committed to operating with sensitivity both to the environment and to our neighbours and through progressive rehabilitation to ensure that our sites have the best long-term use for the future.

Our support for Bill 52 then at Dufferin is related to our support for three of the government's initiatives: The current initiative to reduce costs in all areas of the government's operations; the initiative to eliminate duplication and red tape; and an innovative initiative to explore new ways of doing business.

We feel that Bill 52 is an important development towards fulfilling these general objectives.

We feel very definitely that the continued supply of aggregates is extremely important for the development of this province and for its continued competitiveness.

We support the goals of the Aggregate Producers' Association and we have been members since its inception. We generally support the presentation that was made earlier by the association on behalf of its members.

I'd like to specifically speak to three of the key initiatives of the act: First, the issue of streamlining, more efficient licence applications; second, I'd like to speak to the changes in the rehabilitation security fund; third, the issue of self-compliance, self-monitoring.

First, the licence application process: I believe we are a very highly regulated industry. We are currently experiencing extremely long and costly and risky licence approvals, securing and maintaining our approvals. I consider that's the situation.

The rules of the game are uncertain, at best. They are often seriously duplicated. I've had personal experience of an extreme case of that, the uncertainty, through Dufferin Aggregates' experience with a proposed quarry up in Marden in Ramara township where we have had an application under way for about eight years and we haven't yet even got to the licence stage. The uncertainty in that case has derived from a number of sources, despite extensive public consultation.

The major key there for the uncertainty is a request for designation of the proposal under the Environmental



Assessment Act, and until the Aggregate Resources Act is recognized by everybody as being a strong act that protects the environment, we as an industry are continually going to have challenges under these designation requests, none of which had ever been upheld, but we have the unfortunate experience of having been the only company, I believe, that's had to go through an Environmental Assessment Advisory Committee hearing in order to determine — this was the last government — as to whether requests should be entertained or not.

We would like in terms of clarity at some stage a definite statement from the government that requests for a designation under the Environmental Assessment Act will not be entertained, that the Aggregate Resources Act is the act that controls our industry.

We generally support the Bill 52 framework. We believe it's going to be an improved process. Specifically, we think that the timetable is going to be more efficient and costs, as a result, reduced. Three reasons for that: (1), it's going to be driven by the proponent. A lot of the delays are out of our control. We would like that control. That's simply a time efficiency. (2), we believe that MNR and the OMB will have an ability to scope the issues. As was stated by a previous applicant, this will be extremely useful for, I believe, all stakeholders. (3), there will be an elimination of the appeals to an OMB decision. Despite rigorous review of applications through the OMB, there can be another year or two delay while you have another re-enactment of all the issues under an appeal process. I have experience with that and it was costly and a delay.

We look forward to the further consultation on the regulations. We request that both the legislation and the regulations are very clear in their requirements. We support the industry's request for the regulation exemption in section 66. I don't suppose that's the right place for the comment on the Environmental Assessment Act, but I hope to work through that as well.

With regard to the comments and questions that have been on the regulations, I suppose one benefit of having all the details in the regulations is that they will all be in one place. We currently have quite a maze to follow to go through the process through the act, through the regulations, through the policies and procedures. Even our consultants find it a challenge to put it all down on one piece of paper. When you do and you give a presentation, nobody can read it. That just illustrates the complexity of the process.

Second, I'd like to deal briefly with the issue of the rehabilitation security fund. Rehabilitation's a specific interest of mine and we accept that the current program of providing eight cents is an incentive, but it isn't the only incentive and it isn't the most important incentive for rehabilitation.

We feel that rehabilitation is good business. A large number of producers believe that. It minimizes our impacts, it helps gain acceptance in the community, it increases our credibility and it increases our after-use values. I think many of us have sold properties that have been restored and you realize that there is an asset value to a restored piece of property that's a benefit to the company and the community.

Perhaps the most important incentive, though, is that rehabilitation, both progressive and final, is required by legislation and that will continue to be so. I guess if there is an infraction, in that case the licence will be suspended. We believe that with the focus of the regulators on key issues, the inspection of the rehabilitation accomplishments will become a key issue.

We support this proposal because it is going to eliminate the costly and time-consuming administration. You've had examples of the sort of administration. It's very, very time consuming. It not only ties up the MNR personnel, it also is very costly to business. We've had an example recently where even just transferring a licence was so slow; in one case I lost the sale because the purchaser couldn't wait for the licence to be transferred, and in another case, even though everybody was in support of the licence transfer, it took several months. There was a circulation process. No problems, it was just process. That was the licence transfer — that was a slight aside.

As far as the security fund, it was an issue. The relation of that to the security fund was where the licence transfer was delayed because the government had to find what the current rate of interest was for the security deposit. I lost two months on the sale of a property because the interest rate and the security deposit couldn't be determined, and when we found out, it was only three quarters of a per cent he wanted — why we'd waited so long — but it was important.

So that's all of the issue where red tape gets tied up into knots of red tape. This is costly to government, costly to business, and we look forward to the elimination of that sort of red tape.

We support the permanent superfund, although in essence we are losing money that we thought was ours. We support it because we support the return of the balance of the security fund to us. The superfund we understand will have the ability to be focused on those areas that are prime areas for restoration in most unusual circumstances, so we are in support of that.

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In terms of Dufferin Aggregates and many other producers we will continue to carry out rehabilitation in a progressive manner and have a high quality at all of our operating sites. It is a normal cost of doing business. It's a normal course of business and we will continue to strive to develop improved methods for rehabilitation and support both the Aggregate Producers' Association and other partners in any initiative in this regard.

Finally, I'd like to comment on the self-monitoring compliance partnerships. We feel this kind of partnership reflects a growing trend in industry in general towards increased responsibility and accountability. We at Dufferin are participating in this voluntary program in 1996. We sent our employee who is responsible for this who reports directly to me to the training that MNR and APAO provided. It was good training to understand the program and specifically how to fill out the forms. The forms, as you've heard, are very detailed. They're lengthy, they're precise and they're a great education.

We found it quite onerous; actually we're still finding it quite onerous. It's a great process. It takes time. I think a day a site quoted earlier was good, was accurate. We've



learned a lot about our sites. The benefit is that, as I say, we understand the requirements better. The outcome of that is that we will have better plans. You've heard examples of where plans sometimes include requirements that may be too precise or maybe imprecise, that we will get better plans as a result. It will also lead to better housekeeping of our sites and better overall operating standards. We believe sincerely those are benefits to us as Dufferin Aggregates as well as to the industry as a whole.

The ultimate benefit we see is an assurance to the public and the other stakeholders that should lead to improved confidence in our business. We want to continue to raise the bar of our operating standards and hopefully that will continue to raise the appreciation and understanding, or at least acceptance, which is perhaps the best we can hope for of our industry and our company in our local communities.

The bottom line, I think, of us accepting this, and I believe we are capable of accepting this responsibility, is that the MNR regulator can then focus more efficiently on his job, which is to regulate us. With this emphasis on the priority areas, the priority sites that maybe have violations or even within sites that are needing specific attention for some other reasons, we believe that this is in the interests of the improved efficiency of our overall industry and government industry partnerships, and ultimately that benefits all the stakeholders.

Thank you very much. I appreciate the opportunity and I'll try and answer questions.

**Mr Michael Brown:** Thank you for a very comprehensive view of the bill. This might digress a bit, but one of the things I learned was from quite an experienced member from Essex-Kent who's no longer serving here who said, "You know, big companies deal with regulations fairly easily." A company like yours can deal with whatever regulation at least more easily than the very small operator who can't have an environmental engineer or whatever. I'm just wondering what your view is under this bill about whether the industry will continue to consolidate, might be the word, or whether we will see more small operators vis-à-vis the large operators and will this bill have an impact upon that.

**Ms Lowe:** I think it's hard to say at this point. The trend in the industry towards consolidation, I suppose, is a general trend. I believe, however, that the training program has been very good. The level of understanding of the requirements is good, and I believe that after the initial period where there's a big learning curve, a responsible operator, whether he's big or small, should be able to handle it.

**Mr Michael Brown:** This is a hypothetical question, but given that this act passes, the regulations are out, should there be some kind of active assistance for the smaller operators by the ministry to familiarize them with the requirements of the new act so that they can deal in their own businesses, make the transition to their self-monitoring?

**Ms Lowe:** I really can't assess that. I suppose I thought that the opportunity was there and was taken advantage of. I really can't assess for other operators.

**Ms Martel:** I would like to ask a question around the trust fund itself and what, if any, involvement either your company has had or through the association if the association has had any, with respect to what it's going to look like, what that formal structure will be, how will people participate, how will there be some agreement around how funds are distributed etc. Have we got to that point at all? Have there been any discussions?

**Ms Lowe:** The trust fund is the administration of the licence fee.

**Ms Martel:** The fee plus the security deposit.

**Ms Lowe:** And the security deposit, yes. I don't know all the details of that yet. I understand that there will be a financial institution perhaps involved and that there will be definitely a payor involvement in administration of it. I don't know all the details of that.

**Ms Martel:** I wanted to ask as well a question about public consultation because I gather you've had some of that, given that you have applied for new licences in the past, which is a different position than the gentlemen who presented before was in. Can you tell me about the public input that you've had with respect to new licences and how you've been able to remedy certain concerns?

Let me tell you the reason I ask that. A large part of my riding is in an unorganized area. One of the changes in the act now says there will be no public notification for land owners in unorganized areas with respect to either changes or new licences. I have some real concerns about not involving the public. I just think from a justice point of view it's wrong. But sooner or later people end up in court and you have a much longer-drawn-out process when they don't have any ability whatsoever to be involved. What's your experience been around the new licences that you've had to apply for?

**Ms Lowe:** My experience would be that the first place you would start even before you had a working plan of what you might propose would be to contact neighbours in the area. I think that would be a normal course for a licence application for applicants to do that, notwithstanding the fact that it isn't currently legislated in the Aggregate Resources Act. There is normally public participation simply because it's good business to do that. I think even with the previous speakers — perhaps there wasn't time to explain — I'm sure there were examples there where there were a large number of issues that were resolved. But the concern with the lack of the scoping opportunity is that there are still issues that could be resolved if there was more scoping. I think the point with the OMB and the current ability of the OMB and MNR to scope them will be an assistance.

But back to the public process. The public process experience I've had personally, that Dufferin has had, is that the public process is a good process, that there is exchange of information, and we believe in that. I don't know how that would work in an unorganized riding; I just know that good businesses would go to their neighbours in the community.

**Mr Klees:** Thank you very much for your comments and your expression of support. I want to just address Ms Martel's comment about notification. To ensure that there is not a misunderstanding, the intent is to incorporate in regulation the provisions regarding notification to make them more user-friendly and also to make them much



more stringent in that area. I'm sure that once those draft regulations are seen by the public, by Ms Martel and by the industry, they'll be very pleased. We look forward to their comments and to yours during that consultation process.

I'd like to just address one comment that you made and perhaps get some clarification for you, and that was with regard to the referral to the minister to designate a site. You're probably aware that the previous government took some three years to make a decision with regard to a particular site as to whether it should be referred to the Minister of Environment. Following that three-year period, it decided there was sufficient strength within the Aggregate Resources Act to deal with the environmental issues.

I want to just clarify that nothing in this act takes away any of those environmental protection issues that are in the existing act. In fact we feel there is some strengthening that's going to take place there as well. However, there is also nothing that would preclude anyone from referring or requesting that the minister so designate a site. I think it's important to recognize that. But there is an attempt here to streamline that process, and I appreciate your comments with regard to that issue.

**The Chair:** Thank you very much, Ms Lowe. We appreciate your attendance here today and your input into our process.

**Ms Martel:** On a point of order, Mr Chair: I would request from the parliamentary assistant tomorrow to let all of the committee know where in fact it says in the new legislation that my concerns around notification in the unorganized areas will be met. I'd ask him to look at page 37 of the old act, under section 61, where it lists, "in territory without municipal organization," the notification process that will take place, and it's outlined very clearly what that process is. If you look in the new act on page 17, under section 50, it says, "Part VIII of the act is repealed," period. There is nothing about a notification process going to be listed in regulation with respect to unorganized communities.

It is an important issue. We have a case involving this right now in my riding. I'm sorry, but I don't see anywhere in the new act where it says that concern is going to be resolved in regs.

**Mr Klees:** I'll certainly respond to that. As I stated, it is not in legislation. I'm advising this committee, I'm advising Ms Martel, that those provisions will be incorporated in regulations, and that is our position.

**The Chair:** That is the last presenter for today. The committee now stands adjourned until 10 o'clock in Milton tomorrow.

*The committee adjourned at 1223.*



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Mr Michael A. Brown (Algoma-Manitoulin L) for Mr Grandmaître

Mr Tom Froese (St Catharines-Brock PC) for Mr Flaherty

Mr Doug Galt (Northumberland PC) for Mr Maves

Mr Frank Klees (York-Mackenzie PC) for Mr Hardeman

### **Also taking part / Autres participants et participantes:**

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# Official Report of Debates (Hansard)

Thursday 12 September 1996

# Journal des débats (Hansard)

Jeudi 12 septembre 1996

## Standing committee on general government

Aggregate and  
Petroleum Resources  
Statute Law  
Amendment Act, 1996

## Comité permanent des affaires gouvernementales

Loi de 1996 modifiant de lois  
en ce qui concerne  
les ressources en agrégats  
et les richesses pétrolières



Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Thursday 12 September 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Jeudi 12 septembre 1996

*The committee met at 0956 in the Halton Hills Place, Milton.*

AGGREGATE AND PETROLEUM RESOURCES  
STATUTE LAW AMENDMENT ACT, 1996LOI DE 1996 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES RESSOURCES EN AGRÉGATS  
ET LES RICHESSES PÉTROLIÈRES

Consideration of Bill 52, An Act to promote resource development, conservation and environmental protection through the streamlining of regulatory processes and the enhancement of compliance measures in the Aggregate and Petroleum Industries / Projet de loi 52, Loi visant à promouvoir la mise en valeur des ressources, la conservation ainsi que la protection de l'environnement en simplifiant les processus de réglementation et en renforçant les mesures de conformité dans l'industrie pétrolière et l'industrie des agrégats.

**The Chair (Mr Jack Carroll):** Good morning, everyone. Welcome to the standing committee on general government hearings on Bill 52. We're going to start a couple of minutes early because we're all here and Mr Chudleigh, who is the member representing this region, asked for some time to give a standard political speech and welcome us all to Milton. So, Mr Chudleigh?

**Mr Ted Chudleigh (Halton North):** Avoiding the standard speech, I would like to welcome the committee and the deputies to the riding of Halton North and to the town of Milton. Thank you very much, Mr Chairman.

**Mr Mario Sergio (Yorkview):** And you're buying lunch, right?

**Mr David Tilson (Dufferin-Peel):** We want some apples.

**The Chair:** You've probably just witnessed the shortest speech that Mr Chudleigh will ever give.

**Mr Chudleigh:** I'm not known for my verbosity.

ONTARIO PETROLEUM INSTITUTE  
CAMBRIGHT GAS CORP

**The Chair:** Our first presenter this morning represents the Ontario Petroleum Institute, Doug Gilbert, the executive director, and Jim McIntosh. The way we conduct the hearings is you have 20 minutes. Should you leave any time for questions in that 20 minutes, it will be divided evenly among the caucuses. We rotate the beginning of that, and we will start this morning with Ms Martel from the NDP. The floor is yours, gentlemen.

**Mr Doug Gilbert:** Thank you very much, Mr Chairman, ladies and gentlemen. My name is Doug Gilbert. I am the executive director, as Mr Carroll said, of the

Ontario Petroleum Institute, and you probably need to know who the heck we are anyway.

OPI is a technical, non-profit association which represents the explorationists, the producers, the contractors, the geologists, the petroleum engineers and other professionals, individuals or companies, that are directly related to the oil and gas industries of Ontario. One of the fundamental objectives of the institute is to maintain close liaison with all government agencies which regulate our industry and, in addition, to disseminate information relevant to members' needs, to promote the legislative goals of the institute, and indeed to inform and educate the general public on the significance of the industry to the province of Ontario.

I have given to one of the ladies here a quantity of our June newsletters. This particular issue will acquaint you with the oil and gas exploration and development activity in Ontario.

Since 1986, OPI has been working with MNR personnel to develop a revised Petroleum Resources Act instead of regulations that would allow the industry to explore for and develop in oil and gas in an orderly manner and in an environment of cooperation and partnership with MNR. The lack of commitment towards this issue exhibited by the previous NDP and Liberal governments has been extremely disappointing to industry.

In a brief to Minister Chris Hodgson last fall, we urged the minister to make revisions to the Petroleum Resources Act and the regulations and make it a high priority on his government's legislative review agenda so that the industry may take advantage of the economic opportunities that currently exist for the creation of new jobs and wealth in the province of Ontario.

Bill 52 is the catalyst that will help remove those barriers and will provide the industry with a favourable operating environment for the development of Ontario's oil and gas resources. Bill 52 provides for the transfer of jurisdiction from the Ontario Energy Board to the Mining and Lands Commissioner on such matters as unitization, compulsory pooling and other referrals under the new section 8 of the bill.

OPI and the industry nevertheless are still concerned that the cuts and downsizing to the petroleum resources program and the Petroleum Resources Centre and indeed the petroleum resources laboratory in particular will deeply affect our industry's effectiveness. In our brief to the minister, we stated that OPI supports an increase in the operating budget of the Petroleum Resources Centre to ensure that program objectives are met and to encourage industry operators to explore for and produce oil and gas in Ontario. A modest increase should not hamper the government's overall cost reduction program because it



can be funded by a combination of user pay and industry cooperative services. The proposed trust fund as referred to in section 16 is currently being addressed by OPI to help serve that end.

After 138 years of continuous operation, the methods of production in the historical oil fields of Lambton and Kent counties are a window on the history of oil in the western world. It is necessary to minimize the effect of new and existing regulations to keep these fields in operation.

It is our fervent hope that the long-awaited Oil, Gas and Salt Resources Act, Bill 52, will soon be passed and promulgated by the government of the day. The Ontario Petroleum Institute and the Ontario oil and gas industry, which we represent in partnership with the Ministry of Natural Resources, are willing to take on the challenge that Bill 52 affords our industry in a responsible manner, and we intend to be an integral part of the destiny that has been set before us. Thank you very much for the opportunity to support this long-awaited legislation.

May I now introduce you to my colleague Jim McIntosh, the vice-president of engineering, Cambright Gas Corp. Jim is current president of the Ontario Petroleum Institute.

**Mr Jim McIntosh:** Thank you very much, Doug. As Doug mentioned, I'm the current president of the Ontario Petroleum Institute. It's a volunteer position, elected annually. I'm here talking on behalf of the company I work for, though, Cambright Gas Corp. Cambright is a privately owned Ontario-based oil and gas company. We are currently active only in Ontario. We feel very strongly that Ontario has a large potential for oil and gas production that hasn't yet been realized. We very much look forward to what we think are the positive effects of Bill 52 in revising the rules and regulations under which the oil and gas business operates in the province.

My position in Cambright is vice-president of engineering, as Doug has mentioned. As part of that position, I look after all of the company drilling and production operations. In combination with our field superintendent, we design and install all production facilities. I do all of our reservoir engineering and reservoir management. We deal closely with the Ministry of Natural Resources personnel both in London and the districts as far as coordinating our operations, letting them know what we're doing and working closely with what people are there on their behalf. So far, that relationship has worked very well.

The three major benefits I see of Bill 52 from Cambright's point of view include the appeal and tribunal process being removed from the Ontario Energy Board and being placed with the Mining and Lands Commissioner. The industry has been frustrated with the costs and with, in some cases, the lack of decisive decisions that the Ontario Energy Board has come up with in the past when dealing with oil- and gas-related issues. Because it's a very, very small portion of what they do, they generally don't have a lot of background in it. Sometimes your hearing may take more time just educating the panel on what we do rather than trying to get a hearing. We feel that the Mining and Lands Commissioner is very much more in tune with land-related issues.

We feel we will get a more open hearing, something that the interest groups, besides oil and gas companies, can present their cases at as well, and will get a fairer tribunal that will result in issues being resolved.

The second positive step of Bill 52 is the removal of the current regulations under which we operate and the creation of standards which will be referred to in the regs. These standards will reflect what current technology, current techniques, are available and what anticipated minimum standards should be for what we do in the process of drilling for, producing and selling our oil and gas production. By making the regulations environmentally sensitive, which we feel they will be, we can protect the environment. We can protect the air and surface conditions as well as the groundwater in the areas where we are active.

The OPI has created a number of committees who are working along with the Ministry of Natural Resources personnel to create these standards as we speak. We are hoping by the end of this year or earlier to have the majority of these standards at least in fairly close to final draft form.

The third portion of Bill 52 which we see as a positive step is the creation of the trust fund for the lab and for the information management. One of the keys to a successful and vibrant oil and gas business is easy dissemination of historical production and other information that is gathered from operators in the process of drilling oil and gas wells.

We feel the information that's currently available, although meeting the current guidelines, very much needs to be revamped. There's a lot more information that should be available to other operators that currently is not available. By creating a trust fund that is mandated to disseminate information both to other operators and to the general public, that information base will become much more rigorous, much more available to the oil and gas business for expanded exploration and for things like universities and other people who use that information as well for their research. We see that as a very positive step.

I guess the only caution we have is that if we are to be asked to fund the trust fund through a series of royalties or whatever the funding mechanism would be, we feel very strongly that we need to have control mechanisms on how the money is spent so that the money is not unwisely spent on bureaucracy or something that doesn't result in better information management.

Those are the three main points that we see as positive steps for Bill 52. We are very much glad that it has been introduced. We hope you guys go home with a good feeling about what the industry itself feels. We are open for any questions if you've got any.

**Ms Shelley Martel (Sudbury East):** Thank you to the two of you for your presentation this morning. Let me begin, Mr McIntosh, by talking about the minimum standards and the development of the same, which you are obviously quite excited about because you feel this will make very clear what the commitment will be to the environment and that they will be environmentally sensitive.



I thought I heard you say that you were working in conjunction with MNR in the development of those standards as we speak. Is that correct?

**Mr McIntosh:** One of the standards, what we call our drilling practices guidelines, we had created about six months to a year ago, long before Bill 52 was introduced. It was guidelines that were created by the OPI for oil and gas producers in Ontario, talking about what we as an industry felt were the absolute minimum standards that an operator should follow in drilling a well. The primary standards are designed to ensure that casings and cement jobs that are an integral part of drilling a well are properly placed and are very importantly considered when an operator drills a well, not just necessarily getting down to the pay zone as fast as possible.

1010

**Ms Martel:** You've been assured by MNR that these will form a part of the technical documents that will be in the regulations of this bill?

**Mr McIntosh:** They have led us to that assurance, yes.

**Ms Martel:** So you're doing better than we are, because we haven't, as MPPs, seen any of the technical documents and it's part of the problem we've had with the bill.

There are a number of things that were in the current act, both on the aggregate side — less so in terms of the bill that's being changed for you folks — that now go into regulations, and we have not had the benefit of seeing any of that, so we're operating very much in the dark right now. We would like to believe that everything that will be developed will be to the highest environmental standards, but we haven't seen any of it and we won't see any of it, because it will be done by regulation and it will be dealt with by cabinet.

We have asked the parliamentary assistant and the minister to provide those to us, because we think that would be much better for us as MPPs to work with and certainly better for some of the presenters who haven't had the benefit of seeing some of the changes that we think will probably end up in the regulations after this bill is passed. That is certainly one of the difficulties we have had with this whole bill.

Let me also ask, though, about the Mining and Lands Commissioner, because I was curious to hear you say that you felt that she — I'm assuming it's still Linda Kameron — will be in a better position than some of the people at the Ontario Energy Board to deal with your issues because she would have a better working knowledge of some of those issues. Can you just explain that? Because I find that curious. I'm not making any comments about her ability, because she is a very capable individual, but I'm not quite sure of that connection.

**Mr McIntosh:** The development of oil and gas pools and resources in the province, because of the spacing regulations that are ingrained in the current regulations, allow operators to grow on relatively defined spacing. Depending on the geological age of the formation that you're chasing, you have a certain minimum size area that you have to have pooled to be able to produce from that depth of zone.

What we have found in the past, because it's been so difficult for operators to come to the Ontario Energy

Board and ask for decisions on how to get compulsory pooling and how to get units in place, in a lot of cases operators have opted not to, which has resulted in a number of pools, far more wells being drilled than may be properly needed to effectively drain the oil and gas reserves in that reservoir.

By having an incentive in place where an operator can go to a third party and get the issues on the table and get something dealt with, and because she deals with land issues — most of what we're talking about are land issues, how to properly delegate royalties between various land owners. If there are disputes between oil and gas companies, hopefully we're professional enough that we can work that out among ourselves and then come with the common, from an industry point of view, approach for trying to unitize or trying to compulsorily pool or whatever the case may be, to more effectively drain that pool without wasting financial and surface resources.

**Mr Frank Klees (York-Mackenzie):** Thank you, gentlemen, for your presentation and also for your expression of support for the general direction of this bill. I also want to take the opportunity to thank the Ontario Petroleum Institute for the time that you've invested over the last number of months in working with our staff on the direction and on some of the details of this legislation.

I want to just clarify for the benefit of my colleague, with regard to the issue of standards that, as you have indicated, we are working with the industry to develop. The intent is that once the draft of those standards is ready that it, again, will be circulated to stakeholders, it will be circulated to municipalities and ratepayers for input, and certainly to my colleagues, who will then have an opportunity to assess those technical standards and bring to bear their expertise in the oil and gas industry relative to those technical standards. So there will be opportunity for broad consultation.

I'd like to just ask you very briefly, in regard to the shift to placing more responsibility on the industry for self-compliance, in your opinion, will that create a better circumstance for the environmental issues in our province than exists currently and, if so, why?

**Mr McIntosh:** I think any operator that is active in the province, that has a long-term future in the province is far more concerned about environmental degradation than maybe the general public gives them credit for. The last thing we as operators want is to affect the environment because the only way we continue to drill and continue to explore is to get along with land owners. If we don't get along with land owners either as a company or as an industry because of what we have done in the past, it very seriously affects our ability to go forward.

What we're hoping and what we're planning with the standards is to make the non-long-term players in the patch follow at least the minimum standards that we see as required to protect the environment, so if you've got an investor group or whoever it is just drilling a well because somebody sold them on an idea, they at a minimum will drill the well safely to protect the environment. That way it won't tarnish the industry as a whole, which is what the companies that are long-term players are concerned about.



**Mr Michael A. Brown (Algoma-Manitoulin):** First, I want to congratulate you on your presentation this morning. A lot of people in Ontario aren't familiar with the history of oil and gas in this province and how important it really is. As a fellow born and raised in Sarnia, I'm familiar with the Petrolia-Oil Springs area and certainly much of Kent county also. I recognize the importance of the industry to a good part of southwestern Ontario and into the province as a whole.

Yesterday we had one of your members, I presume, Pembina, in to speak with us and they were talking to us about the bonding provisions that may be in regulation. They were concerned that while there needed to be an improvement over the present status, the government may be moving in a direction, and they were just speculating that it may inhibit many of them and make them uncompetitive. Could I have your views on that situation?

**Mr McIntosh:** The bonding committee is currently wrestling with how best to minimize the potential future orphan well problem by forcing bonding on at least current wells from here on forward to reasonably represent what it costs physically to plug an abandoned well, so that there is an incentive on the part of operators, whether they're long-term players or whether they're one-well-wonder type players, to have enough money in reserve at the point where the well is drilled to plug an abandoned well.

The concern that Brian had and Brian expressed is for the larger operators like the Peminas, like potentially the Cambrights, like the larger players in the patch who may have 100, 200, 500 or 600 wells, if they have to start posting bonds of \$5,000, \$10,000 or \$15,000 per well. That very seriously affects their ability to raise money, because most of that money would be pledged from a bank, which basically lowers their ability to borrow money. That's his concern which we're trying to address with our committee in conversation with the MNR folks on how to put bonds in place that make it financially onerous for a company to leave a well suspended that isn't physically making the money, but by the same token, to have enough money there so when pools become depleted and are ready to be plugged and abandoned, it's not as much of an onerous task for an oil and gas company to plug the wells.

**The Chair:** Thank you very much, gentlemen. We do appreciate your attendance here this morning and your input into our deliberations.

1020

#### MILLCREEK WATERSHED STUDY COMMUNITY LIAISON TEAM

**The Chair:** Our next presenter is Robert Barron from the Millcreek Watershed study community liaison team. Good morning, sir, and welcome to our committee.

**Mr Robert Barron:** Thank you. My name is Robert Barron and I am delegating this morning as a member of the Millcreek Watershed Study community liaison team. I think perhaps I should give you a little introduction to our committee and tell you what we're about and what some of our goals are and show you here — if you're in the MNR you've probably seen a copy of the final report which came out in June. It's what we've been working on

for the past two, almost three, years now, back to October 1993.

I'll just start off by reading you some of the goals that we established in our watershed study at the beginning:

- (1) to restore, protect and enhance water quality and associated aquatic resources and water supplies;
- (2) to conserve, protect and restore natural land, water, forest and wildlife resources;
- (3) to protect, restore and enhance groundwater quality and quantity;
- (4) to minimize the threat to life and the destruction of property and natural resources from flooding and erosion and preserve natural floodplain hydrologic functions;
- (5) to restore, protect, develop and enhance the ecological, historical, cultural, recreational and visual amenities of rural and urban areas; and
- (6) to recognize and encourage meaningful and timely public participation in the development, finalization and implementation of the watershed plan.

I'd like to emphasize that we've had a very successful public participation in all of this. We've had over 60 meetings over the past three years now and they've averaged about 35 to 40 members of the public attending and various public functionaries, such as council members from different municipalities and the Puslinch township.

I should let you know that an important consideration for us is the amount of money that the MNR has invested in this study, \$250,000, out of \$500,000 for the total funding of this, and we recognize that as an important commitment to the watershed planning process involved in overall municipal and other planning in the province. We think that's very important.

Next, I'd like to introduce some of our main concerns here. We're in the process right now — there was one incident that occurred during the study back in June 1995, an artesian well incident that occurred on the Reid Heritage Homes property, which is at the intersection of the Hanlan expressway with the 401. What happened at that time was that when they were drilling an exploration well in a property for an aggregate extraction application, they struck this well and it had a very major artesian flow of three million gallons a day. Over the 15 days it took to finally cap it off, a total of 45 million gallons were run off into the MacKrimmon Creek and then into the Millcreek itself.

This occurred during a time of year when we would normally expect the waters in that area to be going lower than usual, down to the summer low, and this, we saw during the study, significantly raised it. We had several presentations by members of the Ministry of Natural Resources and the aggregate people discussing the impacts on this.

I'd just like to take this opportunity, at the moment, to read from a letter from one of our members. His name is Michael Hoffbauer and he has been one of the facilitators at various meetings that we've had over the past few years and he says:

"We, the members of the community liaison team of the Millcreek Watershed Study, are most dismayed that on July 3, 1996, the township of Puslinch accepted in principle official plan and zoning bylaw amendment



application number P194 for part of lots 23, 24 and 25, rear concession 2 in the township of Puslinch. The amendment will change the current agricultural, conservation and hazard lands to extractive and permit Reid Heritage Homes Ltd to open and operate a new gravel pit within the Millcreek watershed.

"The decision by Puslinch township to accept the amendment in principle is premature, particularly when the Millcreek subwatershed plan, dated June 1996, is in the process of being circulated to all municipalities, including Puslinch township, for approval and adoption. We wish to point out that the Millcreek subwatershed plan has financed on a pro rata basis as follows: \$250,000 from the Ministry of Natural Resources; \$100,000 from the region of Waterloo; \$50,000 from the township of Puslinch; \$25,000 from the city of Guelph; \$25,000 from the county of Wellington.

"This \$500,000 study represents a substantial expenditure of taxpayers' moneys and, as such, must be accorded the primary consideration for any currently proposed and future development within the Millcreek watershed. The community liaison team has been a very active public group over the past two years, having had over 60 meetings and an average attendance of 30 to 40 interested citizens from Puslinch township and most of the communities surrounding that area, including Guelph, where I come from, and Cambridge, and I think as far as Kitchener and Waterloo as well.

"Our concerns with the premature acceptance in principle of official plan and zoning bylaw amendment application P194 are as follows:

"(1) The recommendations of the Millcreek subwatershed plan, dated June 1996, have not been taken into due consideration for the proposed extractive development.

"(2) Conditions attached to the amendment by the township of Puslinch are not specific and leave room for grossly differing interpretations.

"(3) The consultants for the proponent admitted that inaccurate information was presented at a public meeting held on May 6, 1996. The community liaison team requested a second public meeting, but the township refused it.

"(4) The monitoring and contingency plans are vague. There is no investigation, enforcement and compensation.

"(5) The Puslinch township hydrogeologist, Hardin Environmental Services, has identified serious problems with the proposal which have not been resolved.

"(6) The wetlands Millcreek and MacKrimmon Creek, on lots 23, 24 and 25, rear concession 2, Puslinch township, have been previously designated and protected as class 1 provincially significant wetlands. These wetlands are identified in the Millcreek subwatershed plan as green space areas. The destruction of these class 1 wetlands will set a precedent for further removal of green space within the Millcreek watershed. Such a precedent would completely disregard the entire Millcreek subwatershed plan dated in 1996.

"(7) There is no provision for a fishery monitoring program for Millcreek and its tributaries. The continuance and protection of the fisheries is more important than the exaction of penalties if the fishery were to be damaged or

destroyed. Millcreek and MacKrimmon Creek have been identified by the provincial and federal government as a type 1 fishery habitat from the fish habitat protection guidelines for developing areas, MNR 1994, and as such require a high level of protection with no compensation options, ie, relocation, redesign, mitigation.

"(8) The application does not comply with the requirements and regulations of the Aggregate Resources Act, 1989, which is still in force today, and therefore applies to the Reid application.

"(9) The application does not comply with the Puslinch township's official plan in respect to the protection of the public and water resources.

"(10) Finally, the details for a bond letter of credit or trust, to be held in the township as security, have not been specified with regard to the protection of the residents of the surrounding properties and communities.

"It has been stated by the Millcreek subwatershed consultants that the proposed Reid aggregate operation would degrade the quality and reduce the base flow of Millcreek by at least 10%. We ask how much a second and third operation would further degrade the creek. Of equal or greater importance is the very distinct possibility that further gravel extraction below the water table could adversely affect the water flow in the groundwater and bedrock aquifers because of the sensitive and unstable hydrogeological conditions.

"The community liaison team is very concerned about the water supply available for surrounding communities. For this reason, we feel that geologists and hydrogeologists of all municipalities having an interest in the Millcreek watershed should be consulted and reports requested for a cooperative discussion and evaluation. The team believes that approvals for gravel extraction within the Millcreek watershed should not be the sole prerogative of Puslinch township but should involve all municipalities. The community liaison team requests that the Millcreek subwatershed steering committee and technical committee consider the above concerns at its next meeting in October."

We've had some responses from a couple of MPPs. One is Michael A. Brown, MPP for Algoma-Manitoulin, and also Ted Arnott, MPP for Wellington, showing their interest and concern about this letter that we've had.

In addition to the issues related to the artesian well that occurred at that location at that time, this was an important impact on most of the farms around there and all the households in there, and they had to have water brought in for the 15 days during which they were trying to cap the well. It should be noted that even after that, some of the springs and wells around there that helped to sustain the fish habitat on MacKrimmon Creek have not come back since then. So that habitat has been lost.

#### 1030

Another couple of concerns that I've noticed regarding the proposed amendments to the Aggregate Resources Act: I'm concerned about some of the delegation, the appointment of inspectors and trustees as far as the powers that they get of the minister under part V of the Aggregate Resources Act, requiring documentation and records for licensing of different pits and things like that. One of things we're noticing here is that it's important to



have the documentation to find out the nature of any incidents or problems that occur as fast as possible to get some sort of assistance there, to get things cleared up as quickly as possible. The experience at the Reid well showed us that they had difficulties getting fast action to get the wells capped, and consequently there was a major impact in there. This was one of the big issues that occurred during the actual study. We had numerous discussions with Reid, with the aggregate producers and with the MNR and various and sundry consultants as well about this. We have had more discussions than actually appear in the final report here, but it does mention it for consideration.

A couple of other things: I'm concerned that if it's delegating responsibility to the Ministry of Transportation, which is one of the major users of aggregate, I don't see that they have any mandate whatsoever to be concerned about protection of wetlands or natural resources, such as the water supply, which our committee believes to be one of the major resources that Canada has over the world. Canada has 25% of the world's wetlands, and each year we generate an annual gross income from those wetlands of \$15 billion. One thing I've tried to get information about from aggregate producers in discussions during some of our meetings was to find out what sort of income is generated by aggregate extraction annually. I was not given much information about that. A guesstimate that I got from looking at some figures and extrapolating from the government's royalties on it appeared to be in Ontario between \$5 million and \$6 million a year.

We regard the entire issue of the watershed, the water quality in this, as a major long-term resource which is renewable, and because of the unique geographical qualities of this area, because of the aggregate that's there, the sand and gravel, it creates an important water recharge area for Ontario, and therefore a major one for the world, because some of the best in Canada is right here in southern Ontario. This area here could be jeopardized by damage from any of these extractions.

One of the other impacts that we're apprehensive about is, in view of a history now of artesian events in that area, that if, as Reid proposes, they're going to go and create a large excavation — he's estimating that he's going to have a 100-acre lake or pond after he's finished — if there's an artesian well at the bottom of that, because of its proximity to the highways it could actually flood out there if they can't stop it, and they could, if they're going below the water table, create a new artesian well underneath the lake.

A major concern when I was looking over the recommendations on your new resources act, as I said, was the delegation. The other was the appointment of the trustee to administer the trust fund regarding all the moneys for rehabilitation and other uses of this money. We're concerned that the moneys for rehabilitation are not used for other purposes and that there is a continued effort to study rehabilitation of gravel pits and things like this, and to conduct such research as will help us to improve that sort of thing.

Appointing inspectors: One of the provisions recommended under I think part I of the new changes in the act

is that any person can be appointed to it. One thing that concerns me in looking that over is the potential that if the Ministry of Transportation is being delegated responsibilities under part V, is it going to be appointed as inspector and is it going to be appointed as trustee over the fund as well? I'd be very concerned if people who have a large interest in obtaining gravel quickly and expeditiously for their construction purposes might not have full regard for the environmental impacts and I would not like to see them taking control over so much information and inspection. I don't believe that self-inspection or self-regulation is truly effective. For government to be doing things like that I believe is a serious neglect of its responsibilities, the fundamental responsibility of government being services to the people and protection. This is an important thing they have to provide. I think we have just about a complete consensus on that in our community liaison team.

Another issue we're talking about is the information which is available under different sections in the act — I think it's in part V again for the licences — and the information that inspectors can get under part I. We're interested in seeing to it that complete site plans are required and that we have adequate study of the impact's potential and procedures for extraction, and make sure they're complying with safety regulations and things like this, so that it does not have a serious impact on us.

That pretty much sums up the main points I was looking for through my own surveillance and some of the issues that I've talked about from the committee itself. If you have any questions, I'd like to answer them now.

**The Chair:** Mr Barron, you've used up all but about a minute and a half of your time, so there's no effective time left for questioning. Do you have any closing comments you'd like to make?

**Mr Barron:** I'd like to say again that I appreciate very much the support the MNR has provided to our committee. It's been a really great experience for the people who are part of this, and we have learned a great deal about the environment and about the issues of gravel extraction as well. We look forward to your continuing commitment to the public involvement process.

#### UNION GAS LTD

**The Chair:** Our next presenter is Bill James, manager of storage development at Union Gas Ltd. Good morning. Welcome to our committee. Nice to see you. I appreciate your being here. The floor is yours, sir.

**Mr Bill James:** Mr Chairman, ladies and gentlemen, I'd like to thank you for the opportunity to speak to you here today. I'm a firm believer in working together with people to understand and resolve problems. I appreciate the opportunity to present my views and participate in this process.

I was impressed with this government's ability to move forward with Bill 52 to resolve some of our industry's long-standing problems. I'd like to tell you briefly how my company fits into the industry, how we are affected by Bill 52 and then try to answer any questions you may have on those impacts.

First some background. I've been in the natural gas industry for over 34 years. My employer, Union Gas Ltd,



has been in business here in Ontario since 1911. Union Gas pioneered in the exploration and production of natural gas and continues to have an interest in some production facilities. Union, with its sister company, Centra Gas, has almost \$4 billion invested here in Ontario. The companies have over a million customers. We obviously have a long-term commitment to our customers, the people of Ontario. We're here for the long term and have to live with the results of both past and future actions as they affect the environment and the petroleum industry.

Our primary interest in Bill 52 is as Canada's largest operator of underground storage. Storage consists of depleted natural gas reservoirs which we use to store gas in the summer months for use by our heating customers in the winter season. This storage plays a very critical role in keeping the cost of gas low in the Ontario market.

Bill 52 has three major impacts, from our standpoint. First, it assists producers and land owners by having a fairer, much speedier and far less costly process for resolving disputes over the sharing of production revenues. Second, it provides for greater industry participation in the collection, storage and retrieval of vital technical data relating to the petroleum industry. I'm referring here to the drilling records and samples stored for public use by the petroleum resources lab in London. Third, it opens the door for industry participation in the development of standards for the drilling and operation of wells, a big step forward from the days of control by regulation.

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The direction taken streamlines the process of developing petroleum resources. This encourages operators to explore and develop by making it more economic and efficient. As a utility, we can benefit in two ways: First, a viable local producing community keeps the pressure on to keep gas prices low. Second, new discoveries have a potential to add to our storage system as the original gas is depleted. The approach taken to industry in moving from the in-your-face approach is encouraging. It recognizes that when dealing with Mother Nature she makes the rules, not the government. By that I mean that every time we drill a well the potential is there for the unexpected. If the government tries to have set rules or procedures, they often cannot cover all these unforeseen situations and an operator is faced with the choice of doing something which is sub-optimal in order to fulfil a rule versus doing the right thing and being in violation of a regulation that has not anticipated all the circumstances.

The ministry, by involving industry in the process of developing standards, recognizes the value of standards based on the desired outcome where that is appropriate, rather than the old control-oriented cookbook procedures. Remember, all of us in industry have a lot of money invested here and we recognize that it is in our best interests to run an efficient, safe and environmentally friendly operation. Not to do so increases our costs in the long run and jeopardizes the investment we've already made. We don't need to have regulations as an incentive to operate responsibly. We have our investment and our future, which are incentive enough to do that.

We also recognize that there are a small number of people who are not responsible operators. There will

always be people like that and experience has shown that you can't prevent them from breaking the rules. In trying to do so, you simply impose an extra burden on the majority of responsible operators. I compliment the government on recognizing this and focusing on stiffer fines for the bad guys. The only language they understand is consequences. If the risk is high enough, they won't do the deed, and for the few who do their punishment will send a message to anyone else who's tempted.

My company and the industry stand ready to work with the ministry to jointly address areas of mutual concern. It's our belief that, working together, we can find solutions that benefit Ontario and are acceptable to all parties.

In summary, the changes incorporated in Bill 52 will better serve the people of Ontario, the industry and the ministry. We stand ready to work with the ministry in those areas where our experience may be of assistance.

**Mr Klees:** Mr James, thank you for your presentation and for your expression of support also. Again, I want to thank you for your involvement in consulting with us on some of the details of this. I want to take this opportunity to also compliment your company as an exemplary corporate citizen of this province. One of the things you indicated that sometimes is lost in these discussions is the fact that industry is very concerned about the long-term implication of our natural resources and how we deal with those natural resources because your investment and return on investment are dependent on your stewardship around that. What will the direct impact be, if any at all, on Ontario's consumers of the direction we're heading in terms of streamlining, bringing more efficiency and bringing a cooperative environment to this industry?

**Mr James:** The impact, as I see it, would be positive. I don't think there are going to be large reductions, for example, in the cost of gas, but certainly it either reduces the cost or slows the increases in cost. From my résumé, you can see that we've been involved in storage projects in a number of jurisdictions. The thing we are impressed with when we go into other jurisdictions is the way in which the government people work with us, encourage our participation in the industry in their areas and seem to want to have people come in and do business in their area. I think the changes that we're seeing here in Ontario will send a similar message to people from outside. Certainly in the petroleum industry here there's a lot of excellent technology outside of the Ontario oil patch, and we need people from outside the Ontario oil patch to bring those new ideas and that new technology to maintain or increase the production levels in Ontario. The environment has to be open to them to come and do business. If they feel that it's a hostile environment, for example, they just go somewhere else; there are lots of places they can go.

**Mr Tilson:** Mr James, you've talked about how long you've been here and that you're here for the long term. You've talked about the substantial investment your company has in this business. You didn't say the number of employees you employ; I'd be interested in that. My main question is for you to comment on what appears to be one of the criticisms of this government's initiative, and that is the issue between government regulation and



self-regulation. The criticism seems to be that if you have self-regulation you will not have, particularly with issues involving the environment, the public trust.

**Mr James:** I can understand the point about public trust. The thing I'm primarily interested in is the outcome. I'd just refer to the previous speaker. I heard him saying there were some concerns over whether industry would or could police itself. It's human nature, I guess, when we don't understand all facets of a problem or a business, to fill in the blanks with something negative. In an absence of information, we start to suppose what's happened. With the bombing in Oklahoma, for example, the general assumption was that it must have been some foreign intervention that caused it. The human mind starts to place negative things and make assumptions. The same thing happens when people don't understand the issues an industry is faced with; they assume it will take some selfish act that, as you suggest, would harm the environment.

As you get closer to it, you understand that there are a lot of pressures on industry to do the right thing. Government cannot turn a blind eye and turn people loose, but by having the ministry looking over the industry, having the means to deal with people who don't follow the regulations, I think that's really the most effective way of handling the situation. We don't need someone looking over our shoulder all the time. The people who are bound to flout the rules are going to wait till you're looking the other way anyway and go ahead and do it. That's been my experience.

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**Mr Michael Brown:** I appreciate your presentation a great deal. As I mentioned to a previous presenter, being from Sarnia and being familiar with what goes on in Lambton and Kent counties in terms of gas storage and that sort of thing, it's good to have somebody from the industry here.

I wonder if you could tell me who in your opinion is the leading jurisdiction in terms of providing both environmentally friendly and business friendly regulation. Would it be Alberta, Saskatchewan, Ohio, Michigan? It might be somebody else.

**Mr James:** As it pertains to the petroleum industry, certainly one of the areas one would look to is Alberta. It's such a large industry there that they have had to pay a great deal of attention to the impacts on the environment. There has been a wide variety of challenges facing the industry, and the information that's available from various industry organizations, as well as from the government, is of tremendous assistance to us here in Ontario, for example, when we run into similar situations.

**Mr Michael Brown:** We don't know about what the regulations are under this act. This is very problematic for this committee in that we don't have any idea what the standards really are that are being required. Do you believe that the regulations that are being placed, that you've been talking about with the government, are similar to Alberta's?

**Mr James:** Yes. As a matter of fact, one of the things we do is look at the Alberta regulations and see how they would apply to Ontario. If there's anything that we would tend to leave out, it would be because it's not applicable,

not because it's too harsh. In other words, we're not trying to soften up something that comes from another jurisdiction. We want to make sure we meet the needs of Ontario, but at the same time we don't want to put a lot of unnecessary burdens on people.

**Mr Sergio:** We have heard quite a bit, even yesterday, from some presenters, and you this morning spent a considerable time on the matter of self-regulation and self-control. We have heard quite a bit about: "Give us the minimum standards. Let us work within the minimum standards." We have a problem because we have no idea what those minimum standards the government wants to give you are. We are not aware of those minimum standards. But given that, if you were to be given those minimum standards, how would they be working in an industry where you mentioned that there are people who will not abide by the rules? How will those minimum standards work to protect both the industry and the public and enhance and protect the environment?

**Mr James:** It's my understanding that the ministry has plans for enforcement of those standards and dealing with people who do not follow the standards. What more can you do? As far as developing the standards and so forth is concerned, as I mentioned earlier, my company and the industry in general stand ready to work with the ministry in producing those standards. This would not be a one-sided thing where we hand the standards over to the ministry and say, "These are our minimum standards for you." It's something we have to work on with the ministry to make sure all of the ministry's concerns are dealt with, as well as being something the industry feels is practical and meaningful and we can all live with.

**Mr Sergio:** What actions would you take, as a self-regulating industry, to protect and enhance the environment so you don't get into a situation where you need the intervention of the government?

**Mr James:** Through our industry organization, in this particular case the Ontario Petroleum Institute, we don't have at the present time a means of reporting one operator to the association, but I think if it was felt that this was a desirable thing, we could work with the ministry to see if there weren't things that could be done within the industry association itself to help deal with these things. But ultimately, when it comes down to enforcing the law, I think that's a government thing to do. I don't think we want individuals running around doing that. That's vigilante law, and we're certainly not in favour of that.

**Ms Martel:** Perhaps what I'll do, Mr James, is make a couple of comments first and then I'll ask you a question about the trust fund. Two points. First of all, you've heard us on the opposition side harp a little bit this morning on the development of standards, and you need to know why we're doing that.

The Minister of Natural Resources, Mr Hodgson, in a former life, when he sat on this side, was part of a committee that studied the Crown Forest Sustainability Act in 1993-94. At that time there were a number of standards that were also being developed to deal with practices in forestry in Ontario, and he was very much of the view that those standards should be given to the committee before they even started out on their public hearings so that the committee members and all of the



public would have a look at them. In fact, he was very critical of the government when those weren't produced when the hearings started.

The government did produce those standards. People had a chance to look at them. There were changes in the technical standards during the public hearings process and during the clause-by-clause. We find it passing strange that the same minister who was so concerned about the public having access to the technical standards as the bill was being developed when he was in opposition does not have the same set of standards now. That is why we have been asking for the standards, and if any of them are ready, I would just ask the parliamentary assistant to please give them to us and we would stop having this problem at the committee hearings.

Secondly, I can't speak for Mr Barron's concern around self-regulation, but let me tell you mine. Yesterday there was some discussion about the number of MNR inspectors that were going to be left to enforce parts of this act, and we couldn't get the numbers from the parliamentary assistant. I can tell you, though, that in a meeting I had in June with Mr Cooke, who is the executive director of the aggregate producers, Mr Cooke told me that MNR staff had informed him that the number would go from some 40 to 14. There are some 2,300 licensed sites in the province. That would be about 164 sites for each of those inspectors — that's trying to monitor the compliance plans that people are supposed to send in, doing random audits, trying to get at the bad apples.

My concern is that that is not enough staff to do the kind of enforcement and compliance that has to be done in the province to make sure that the public's perception of the industry is a good one, because if those bad apples and those people get out of hand, all of the members in the industry are tarnished one way or the other. I think that's the concern that many of us from the opposition have: There will not be enough people to do the job that will convince the public that things are operating well.

Let me ask you the question about the trust fund. What is the difference between what shows in the bill to be what the trust fund will do around the funding of information management, research, surveys etc and what is done now, either through the petroleum resources program, the laboratory or the centre? What is the difference? It's not clear to me what that is.

**Mr James:** The difference is that at the present time there is no funding for research in the petroleum area, and this fund would provide for some moneys to be used in furthering the technical research into the petroleum industry, its impacts on the environment, in those areas specifically applicable to Ontario.

**Ms Martel:** Could the money from the fund at any point in future replace the money the government now provides to continue either the petroleum resource program, the lab or the centre? Is that a possibility?

**Mr James:** I really couldn't say that. I don't know.

**The Chair:** Thank you very much, Mr James. We appreciate your coming forward this morning and giving us your input.

**The Chair:** Our next presenter is Mrs Hanne Pedersen.

**Mr Klees:** Mr Chair, while the next speaker comes forward I will provide a note of explanation to the committee. Reference was made previously by a colleague to the fact that the intention is that this become a self-regulatory environment for this industry. That clearly is not the case. There is a requirement for self-compliance. This is not self-regulation; far from it.

**Mr Michael Brown:** Mr Chair, we don't need speeches.

**Mr Klees:** I just felt it was important that this committee have that understanding.

**Mr Michael Brown:** We'll do that in clause-by-clause.

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HANNE PEDERSEN

**The Chair:** Good morning, Mrs Pedersen. The floor is yours.

**Mrs Hanne Pedersen:** Mr Chairman and members of the committee, I'm addressing you today as a citizen of Crieff in Puslinch township, just west of where we are today. The Pedersen family has lived at RR2 for about 30 years, and before that, we lived in what is Halton region today. We own 33 1/3 acres along Concession 1, part of which, when we bought it, was a dormant wayside pit site, and it was at that time that I became aware of and interested in matters to do with gravel extraction.

As you may or may not know, Puslinch township is among the top municipalities in Ontario when it comes to the mining of gravel. I am told that building projects such as the Toronto subway system, the CN Tower, the Burlington Skyway and many major highway projects have all been built at least in part with materials from Puslinch.

Our annual total production usually runs to about two million tonnes, sometimes more and sometimes a little less, but over, for example, a 10-year period, it would be fair to say that two million tonnes is a correct figure.

We have around 20 commercial pits — I think the actual number is 19 — and a total acreage of about 3,000 pretty well all zoned and licensed for extraction and under operation.

With regard to Bill 52 in its present proposed form, yes, I've read it. I find it quite bewildering, I think mostly because I don't seem to be able to find any guidelines to go with the bill. In spite of the fact that I seem to understand earlier versions of the Pits and Quarries Control Act, I must say that the latest edition is strange and confusing in its present form. In spite of this state of affairs, I respectfully offer the following thoughts in the hope that some of these will at least be of help to the committee in arriving at a final bill.

I understand that Bill 52 is an act designed to promote resource development, conservation and environmental protection and yet somehow simplify the present government rules and regulations. It's a very good idea if everyone concerned acts responsibly when it comes to the abovementioned areas.

It is my opinion that most people will cut corners when it comes to environmental guidelines, or at least try to, and I strongly urge the committee to consider some form of guidelines at least within the part of Bill 52 which deals with gravel extraction, which I know best.



I would imagine that a maximum acreage that any one producer or subsidiary of same can hold under an extractive licence in any given district may somehow create an incentive for the industry to make more of an effort on behalf of the notion of gradual rehabilitation of extractive lands. In Puslinch township, it's very clear that there is much more land zoned extractive on an annual basis than there is rehabilitated.

The township is, however, supposed to have an official plan which offers an opportunity for various forms of development — housing, agriculture, social, recreational and so on — and even if an official plan may have incorporated all these aspects into it, the reality is that nobody in their right mind would buy real estate next to or even near to an extractive operation for whatever purpose they might have in mind.

Again, much more emphasis must be put upon gradual rehabilitation. It's quite evident in Puslinch township that although we have huge gravel deposits, we also have a far more important natural resource, namely, water — water of superior quality and vast quantity and water of potential future municipal importance.

The township is situated within the headwaters of several important watersheds. You've already heard about Millcreek. There is also Spencer Creek and Fletcher Creek, to name a few. It is my belief that the combined gravel operations in the township have a very real and devastating potential for damage to this water base, and a recent study of the Millcreek watershed seems to confirm this notion. I hope the committee will take a detailed look at the concept of water versus gravel extraction before any streamlining of Bill 52 is made into law.

In section 1 of the proposed Bill 52, there is under clause (a) some reference made to wayside pits. I must say that this section, as I understand it, is totally unacceptable to me. It will just be used as a foot in the door to get a few their licence for a commercial pit, and there is no way that the local public can participate in the planning process.

As the rules are today, there are no requirements for public notice for the establishment of a wayside pit. I detect MTO afoot here, simply because we had a similar little issue within the township boundaries a few years ago and at the time the Ontario Municipal Board ruled that the status and procedures attached to the Pits and Quarries Control Act on behalf of the wayside pit issue should be maintained. After all, a pit is a pit is a pit.

I would finally like for someone to tell me that I'm wrong, but from what I understand, were this Bill 52 to become law in its present form, it will leave any one municipality with little choice but to hire its own environmental inspectors or enforcers, as the case may be. I respectfully suggest that this committee consider an increase of at least two extra cents per tonne on gravel extracted in a municipality to go directly to the township.

There is far too much time and effort spent on extractive-related problems as it is and we can probably do a better job within the township boundary lines and take care of this ourselves in an impartial and fair and sensible manner, with a strong dose of moral fibre thrown in. Thank you, Mr Chairman, for your time.

**The Chair:** Thank you, Mrs Pedersen. We've got about four minutes per caucus for questions, beginning with the Liberals.

**Mr Michael Brown:** Thank you for coming. I don't think there are many members of the Legislature who wouldn't have had, at least at some point, queries about either having gravel pits or quarries opened or a problem with an existing one.

The previous presenter, whom I've had some correspondence with, was from Millcreek, and we're still waiting for an answer to our query from the Ministry of Natural Resources regarding his information. What I'm having some difficulty in understanding is, given your difficulties with the previous act — obviously it isn't working as it should, at least from your particular viewpoint — do you have some suggestions on how we might improve that process?

We all know that we need to extract aggregates — it's important to our economy, it's important to our province — and yet we want to do that in the most sensitive and sensible way, and I think the responsible people in the industry want to do that too. So could you give us some suggestions on how you think, if you were rewriting the aggregate act, you might go with this?

**Mrs Pedersen:** Yes. I'm very glad you ask that question, because we have in Puslinch township struggled with this very problem: How much is too much within any one municipality and how much can we allow and yet allow for other forms of development?

It would seem to me that if we were to establish a priority zone system whereby we have zone A, zone B, zone Z, we would then have a recognition of all areas of gravel within a given area. We would have an orderly and gradual form of extraction whereby there will be no extraction in zone B until zone A is extracted and rehabilitated to its full form or state, or as close to it as possible.

I also feel, and I'm saying this with much consideration, that the present system whereby operators are allowed to operate multipits within any one area is an abuse of the intent of the Pits and Quarries Control Act, an ideal here with a gradual and orderly opportunity for extraction that is not being followed when one operator has three or four pits within, say, Puslinch township and a hole here and a hole here and a hole here. It is, after all, the mining and extraction of a non-renewable natural resource and not on the same basis as production of any other commercial commodity. Therefore, the rules need to be a little different so that other people can also live within a given area where extraction occurs. I realize, like you said, that gravel is an important commodity.

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**Mr Michael Brown:** A former colleague of mine who represented St George-St David said one day in the Legislature, when we were speaking about landfill sites, which is also a relatively contentious issue in this province: "You know, I don't understand it. None of my constituents have any problem with landfill sites." Of course, if you're in downtown Toronto you don't. It seems to be an issue of where you are. I am concerned — you raised this issue and I hate to belabour it — that we are really getting the mushroom treatment



from this government: Keep us in the dark and keep us covered with manure.

**Mrs Pedersen:** I kind of like this government, sir. I will, however —

**Mr Klees:** Thank you very much. Would you repeat that, please?

**The Chair:** Thank you, Mr Brown. Ms Martel.

**Mr Klees:** What a way to close it up, Mr Brown.

**Ms Martel:** Thank you for your presentation here, Mrs Pedersen. I want to talk about, though, the problem we are having, because I think you hit the nail on the head when you said there are a lot of things that used to be in the act that do not appear in the new act. It has been a concern that we have raised, and I raised it again yesterday, but let me give you some examples. In the old act, for example, all of the requirements for a class A licence appeared. In the new act, that will all be done by regulation. All of the details that have to go into the report that accompanies the application for a class A licence used to be in the old act; now it all goes into the regulations. All of the information to be included to obtain an aggregate permit that used to be in the old act now goes into the regulations. It's the same thing for all of the details for the site plans that are supposed to accompany the applications — once in the former act, all detailed; now into regulations.

The one I had some discussion with the parliamentary assistant about yesterday is that the notification process for unorganized areas, of which there are many in my riding of Sudbury East, notification to residents that there will be a new quarry opening or an expansion, has been completely repealed. The PA told me as of yesterday that this will go into regulation too. I don't know why you take out of an act something that is very clear, that is in no way, shape or form onerous, because it requires two ads in the paper and a posting on the quarry, that it should somehow be repealed. I do not understand why we do not want to give people public notice about these important issues.

Our concern has very much been that we are operating with a shell when it comes to this particular act and that all of the regulations that will really put together this bill and determine how people operate and under what kind of standards are things we are not privy to at this committee. We don't think we should be operating like that. This is an important issue. If the documents are there with respect to the standards, they should be given to us, and if information is already in the act about how people should operate and exercise their responsibilities, that should stay the same, so that everyone is clear how people are going to operate.

Let me ask you about your concern around wayside permits, because I believe you said to this committee that you had a concern that this might be, if I might paraphrase, a backdoor approach or some way to get a commercial licence.

**Mrs Pedersen:** A foot in the door, yes.

**Ms Martel:** Why are you saying that in terms of the changes you see under that section?

**Mrs Pedersen:** I don't have it before me, but I can remember it. It says that a wayside pit may be operated for two years consecutively as a wayside pit, whereupon

it has to become a commercial pit. When you start a wayside pit, there are no rules stated that would say that there has to be notice given to the public in the surrounding area. Even a land owner next door doesn't have to be notified within the wayside permit concept. Once we turn that around and make it a commercial pit two years later, the backlash will be: "You never said anything when it was a wayside pit. Why are you complaining now?" It seems to me it's almost like a catch-22 situation.

I don't think the general public likes to complain. I do, however, think that the general public has the right to feel a reasonable amount of security on behalf of their investment in their home or property. The process where that is suggested in Bill 52 would eliminate that sense of security, or at least some security, that people have when they buy property in the country — on behalf of the extractive concept, at least. There are lots of other things that can happen, but I think we owe it to people to let them know something as devastating as gravel extraction is happening, whether it's wayside or commercial, next door to a property owned by a homeowner, for example. We owe it to them to let them know that their property value is now about to go down for at least 25 years.

**Mr Klees:** Thank you very much for your submission today. This is why we're here. We're here to get input and some advice and also to provide some clarification perhaps to the members of the opposition who continue to do their best to perhaps get us sidelined here.

I want to comment on your reference to wayside pits. I want to assure you that a wayside pit will not become a commercial pit without going through the appropriate licensing procedure and notification. Wayside permits, as you're probably aware, can only be used by public authorities. They're intended to be a temporary measure. There are many hundreds of them across the province. We want to assure you that it is not in any way an agenda of this government to extend the use of those. In fact, what will be seen is that the notification process for licensing commercial operations will be streamlined. They will be required as well not only to go through the licensing process, but there will actually be a requirement for public meetings, open houses, so that those people affected will have an opportunity to come together in a public forum to have their input on that. I just wanted to assure you on that issue.

*Interjection.*

**Mr Klees:** Sorry. Let me just clarify a couple of things and I'll look forward to your comment. With regard to water issues, again a very important point, we agree with you that we have to be very concerned about the environment, about ecological issues. What this bill will do is strengthen the environmental requirements. Yes, it's not in this legislation as you see it today. This legislation is intended to be a framework that will then allow us, within regulations, to establish standards by which the operators will conduct themselves. That creates for us flexibility and opportunity to work with the industry to establish those standards.

Once again, for the benefit of my colleagues — they're slow of hearing — I want to assure you and the public that the intent of this government is that as soon as the draft regulations are ready, which we expect will be



within the next month or so, they will be broadly circulated to all of the stakeholders, to all of those individuals who want to have their input. We look forward for their input and we will then, when that consulting process is completed, finalize those regulations, those standards within regulations, and we'll have to adhere to those.

I want to assure you of one other thing: The Ministry of Natural Resources is not getting out of the business of inspection. As a result of this bill, we will be able to target inspection as the key function of our inspectors, who today are only doing inspection for about 25% of their workload. We're going to move that from 25% to 90% of their workload.

I think it's important that you and the public understands what the direction of the government is with this bill. It's to ensure efficiency. It's to ensure that we can enhance the inspection component of the roles and responsibility of the Ministry of Natural Resources.

**The Chair:** Thank you, Mrs Pedersen. We do appreciate you coming forward and —

**Mrs Pedersen:** I didn't get a rebuttal, Mr Chairman. I'll put it in writing.

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#### LAFARGE CANADA INC

**The Chair:** Our next presenter is John Stratton, representing Lafarge Canada Inc. Good morning, Mr Stratton. Welcome to our committee.

**Mr John Stratton:** Good morning. My name is John Stratton and I am the property and development manager for Lafarge Canada Inc, eastern region. I've been with Lafarge and its group of companies for 28 years. I've been directly involved with the management of our property and aggregate resources for more than 17 years. I appreciate the opportunity we have been given to speak to you today on behalf of our company.

We are one of the largest aggregate producers in Ontario with nearly 70 licensed sites under the Aggregate Resources Act with operations throughout the province from London to Ottawa, north from Hagersville to Sault Ste Marie. We employ approximately 1,300 hourly and salaried employees in Ontario, both directly and indirectly, in the aggregate business. We utilize close to 150 trucking firms, both independents and companies, to transport our products to market. We produce and sell a wide range of sand, gravel and crushed stone for the construction and development industry in Ontario. In addition, we manufacture cement, ready-mix concrete, concrete pipe and manholes, paving stone, brick, block and asphalt products, all requiring aggregates as their main component.

Lafarge has an environmental policy and best practices manual which has been developed and is used across North America. Our goal is to adhere to these policies, demonstrate our leadership position within our industry and maintain our commitment to being environmentally responsible and responsive members of the communities we operate and live in. We have long been a proactive leader in the aggregate industry, along with many others, in developing rehabilitation programs and practices. We have received recognition from both within and outside

our industry for our rehabilitation accomplishments and operations throughout the province. We are committed to the success of the aggregate industry in Ontario and will continue to take a proactive role in the shaping of this industry for the future.

It's for these reasons that Bill 52 is of such interest to our company. We are generally in support of Bill 52 and the amendments proposed to the Aggregate Resources Act. We agree with the concept and the objectives that we see to (1) attempt to streamline and improve the efficiency of some of the processes; (2) prioritize many of the functions performed by the MNR; and (3) delegate some of the delivery of the act to the APAO, the Aggregate Producers' Association of Ontario, and the aggregate industry itself. But in saying that, we also understand and also endorse the need to ensure that environmental standards continue to be recognized and protected.

We support the position and the comments of the Aggregate Producers' Association of Ontario on Bill 52, but we would also like to comment on several parts of Bill 52 that we feel are important and that we can provide a viewpoint on from the industry perspective, and a personal knowledge in some cases.

The first item in Bill 52 I would like to comment on is the self-assessment or self-monitoring program. We believe the completion of the annual inspections and compliance assessment reports undertaken by each individual producer under a clear set of guidelines will achieve, in many cases, what has been absent in some areas for the last two to three years, and that is a regular, annual inspection of every operation in Ontario. Annual inspections have been, to say the least, sporadic in many cases and have not been consistent from district to district.

Lafarge had the opportunity and took part in a self-monitoring program in Maple district put on by the MNR and the APAO. This consisted of a one-day training program in August 1995 for five of our people. I was one of the people who attended the session. It included a review of the legislation, site plans and inspection process, an afternoon in the field completing an inspection and an assessment report with MNR staff. We then completed inspections and assessment reports on 12 of our licensed sites, identified compliance matters which required attention and worked with the district MNR inspector to review, comment and rectify any non-compliance matters identified.

For 1996, we are currently involved in a voluntary program for all of our licensed sites in Ontario. We have a commitment from senior management within our company to undertake the responsibility of the self-monitoring program. We accept and take this responsibility very seriously. The licences we hold are the key to our continued operations and success in the future. We will not place these licences in jeopardy through a haphazard approach to the responsibility that has been given to our company.

I would like to refer to a letter dated June 12 that I wrote to all our division vice-presidents with respect to self-monitoring and annual inspections. I won't read the whole thing; I will refer to several paragraphs.



"As you are aware, the Ministry of Natural Resources is making significant changes to the Aggregate Resources Act and the way in which our industry will be regulated in the future. For 1996, the MNR and APAO have an agreement in place whereby all APAO members will complete and file a compliance assessment report for every licensed site between June 1 and August 31, 1996.

"Legislation is before the government to amend the Aggregate Resources Act and cover all aggregate operations in Ontario for 1997. In order to assist the various plant and area managers to complete the compliance assessment reports for 1996 and to help ensure that procedures are in place to comply with the new regulations in the future, the technical services property group" — that's the group I head — "will be taking a direct and active role in the self-monitoring program. We ask for your assistance and cooperation in this regard.

"Our objectives are as follows:

"(1) to coordinate, oversee and review all annual inspections and compliance assessment reports in accordance with the Aggregate Resources Act;

"(2) to provide assistance, interpretation and direct involvement in the inspections, filing and remedial actions required;

"(3) to develop a consistent approach to the inspection, interpretation and liaison with MNR personnel and ensure all sites for Lafarge are complete; and

"(4) to assist in site plan amendments and non-compliance matters so that Lafarge has a uniform and consistent approach in these matters."

Under the general information number of points that I went through in the letter, I'll just read a couple of them, if I may:

"(1) Ensure that you have an approved replacement site plan under the Aggregate Resources Act.

"(2) Follow-up notices to MNR on completion of remedial action should always be in writing with a copy to tax services.

"(3) Make sure the person doing the inspection has a copy of the compliance assessment report completion guide. There are no longer any grey areas. You are either in compliance or not."

Two more points:

"Notes on the site plan are in fact conditions to your licence. Review them carefully to ensure compliance."

"Be advised that a licence suspension will not only shut your aggregate operation, but any other operation within the licence boundaries."

I believe there are many benefits to our company and to the industry by assuming the delivery of this program. The pilot project in 1995, the training sessions for more than 25 of our managers in 1996 and our direct involvement in the annual inspection process have provided an enhanced and detailed working knowledge of our site plans and operations, the compliance problems and remedies and a better understanding and appreciation of the process.

I believe that the credibility of our industry and our company and the Aggregate Producers' Association of Ontario will be improved and enforced by this program. We are a responsible industry and we can deliver this product in an honest and forthright manner. We believe

a self-monitoring program will remove many of the inconsistencies that now exist across the province. We believe the self-monitoring program will free up time for the remaining inspectors to concentrate on those few within our industry who choose not to abide by the act and its regulations and this can only help and improve our industry in the long run.

The second area I would like to comment on is the licence application process. We support any attempt to improve and streamline the licence application process for new or expanded licensed sites. The process currently is fraught with long time delays, uncertainties, extreme cost in some cases, for all parties involved, and not just the aggregate producer. I believe in some cases that all the time, money and resources thrown at these applications do not always provide an efficient means to reach a balance between the needs of the community, the aggregate requirements and the environment that may be impacted.

There has to be a better method to deliver a product, in this case an aggregate licence, along with all the safeguards that are required than the process that currently exists. We support the basis of standard licence conditions, standard technical reports completed by professionals that address a well-defined set of criteria and guidelines.

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One example that our company has in the township of Uxbridge: We purchased a piece of property in 1989, 60 acres, a relatively small piece, went through a rezoning, official plan amendment and licence application in 1991. There was no absolutely no public opposition to this rezoning application and licence.

The Oak Ridges moraine study froze all development. The outcome of that study is still undecided. The Durham OP went through its normal five-year review. MNR could not act on the licence application. Comments from other agencies, such as the MOE, lagged for more than two years. Seven years later, we don't have a licence, we don't have an answer. A small businessman could not operate in this kind of time frame without even getting an answer.

The next area I would like to comment on is the rehabilitation security system. We support the changes as proposed in Bill 52. We believe the revised system will provide enhanced protection for the existing licensed sites that have been abandoned or that have had their licence revoked. The pool concept or superfund concept will ensure enough funds are available for any one site that requires remediation by the fund.

I believe we have progressed a long way from the Pits and Quarries Control Act of 1971. Our company takes pride in our housekeeping, visual impact on the surrounding community and our progressive rehabilitation programs that are ongoing on a continual basis. There is no question that progressive rehabilitation is the most economical approach to achieve the final land use for our licensed properties. We also believe that the elimination of the rehabilitation claims and verification each year, again by MNR staff, will free up more productive time for those people.



The act, its regulations and site plans provide the framework under which rehabilitation has to be completed. Non-compliance under these guidelines can result in suspension of your licence by the MNR. We support and we endorse Bill 52 in this regard.

The last area I would comment on is the abandoned pit and quarry fund. We concur and support the position of the APAO and Bill 52 with respect to the changes proposed for the abandoned pit and quarry fund. We believe the APAO and its member companies can deliver and administer the program in an efficient and cost-effective manner. We have developed rehabilitation expertise within our industry. We know the equipment and have the practical experience to deliver a cost-effective final product.

In conclusion, I would restate our company's support of any changes to the Aggregate Resources Act that will rationalize and streamline some of the processes, deliver the act in a more efficient manner while maintaining the necessary environmental safeguards that are always required.

That completes my comments and I would like to thank the committee for the opportunity to express my viewpoint and our company's viewpoint.

**The Chair:** Thank you, Mr Stratton. We've got two minutes per caucus, beginning with Ms Martel.

**Ms Martel:** Mr Stratton, thank you for your presentation today. Tell me what it is about the changes in the licence application process which you feel are going to take you from the position you find yourself in of seven years and still no response to something that will give you a more direct response in a timely fashion. What are the specific changes that will allow you to do that?

**Mr Stratton:** I think standardized technical reports will definitely be a benefit and I'll specifically relate it to you that in this application the MOE took I don't know how many years to decide that we need to do a hydrogeological study, and that just came out in July. This is for a dry operation. This is not below water. Surely it does not take seven years or five years or three years or two years to get an answer like that.

I'm saying that if there are standard technical reports and standard conditions that every operator knows he has to do, whatever they may be, and if you go on with your eyes open and you do those reports and you bring them in with your application, we shouldn't have to wait that long to have somebody tell us, "Oh, by the way, we need this," and then come back six months later, "Oh, we think we need this." That's a general statement.

**Ms Martel:** Can you tell us what involvement you've had, if any, in the development of some of those standards to date?

**Mr Stratton:** I've had no development at this point, no.

**Ms Martel:** Part of the problem we've had, and it's been an ongoing problem, is neither have we. We haven't seen them, so we're at a bit of a loss from the opposition side to say whether some of those things are going to help you or hinder you. We don't know what they are yet and we would have liked to have had that while the committee travelled, because what we're being asked to do is to pass this legislation as it is as a shell and then

we'll see all of the technical standards and the regulations at some point after. They will of course be developed and approved by cabinet and there won't be a committee like this that will deal with them in a way I think they should be.

**Mr Klees:** I'm sure you're aware of the fact that those standards, once we have the initial draft, will be circulated to you and to all of the other stakeholders and that it will not be cabinet who will be developing them because, although I have very high regard for all of the members of cabinet, none of them, I believe, are in a position to develop these standards technically. They will certainly be involved in approving the standards that you as stakeholders develop along with ministry staff.

One question for you: You indicated that in your letter to your associates you said: "There are no longer any grey areas. You are either in compliance or not." The implication is that under the current system there are grey areas. Is that correct? Could you comment on that?

**Mr Stratton:** Yes. I don't think I'll be talking out of school here. Because of our operations across the province, we deal with a number of different personnel with MNR and I think they have some latitude in interpretation of the act and its regulations. As we saw it, there were different things that were allowed to happen from one district to another and it was open to interpretation perhaps. Every situation is different.

There was never a set of criteria, a very specific checklist. We have that now. That was developed in the pilot project and refined for 1996. We have a two-page, detailed checklist going down point by point. I feel that when I read that it's very clear. Your fence is up or it's down, one or the other. You're in compliance or you're not. Your setbacks are this, yes or no. I mean to me it's black and white. You're in compliance or you're not in compliance and I think it's very easy: With a checklist now we can go through and you have a consistency now that we're using right across all our sites in Ontario.

**Mrs Sandra Papatello (Windsor-Sandwich):** Thank you, Mr Stratton, for your presentation. I would like to just ask a couple of questions. Perhaps you could estimate for me the cost to your company for the 25-some managers you described attended various sessions and went through training, as well as your own time, additional study time etc to come up to speed in that whole process of self-monitoring that you are going through. What would that cost be to your company?

You described that seven-year delay and a small operator couldn't possibly absorb those costs without getting on in some revenue-generating after having acquired the land. How would a small operator afford that process of self-monitoring? You clearly have to assign staff to do that on a regular basis. Is there any indication in your industry that smaller firms wouldn't have the wherewithal to do that? Perhaps they're more in a position to have individuals who wear 12 hats in a smaller operation; they have to do several things. Is there a chance they wouldn't be able to complete the process as a firm like Lafarge is able to do?

Second, could you comment on the presenter before — I don't know if you were here to hear her, the resident.



**Mr Stratton:** Yes.

**Mrs Papatello:** She gave an interesting description as a resident from that point of view, these things popping up in their neighbourhood. You have sites across Ontario. How do you deal with residents and how comfortable are you that regulations haven't been provided for us to see in advance so that we are aware there is a process that you will go through willingly to work with the various communities that you're in to ensure that the residents are happy and are a part of the process?

**The Chair:** Unfortunately, Ms Papatello, you've got no time for the answers. Thank you very much, sir. We appreciate your attendance here today.

Our next presenter is Neil MacDougall, chair of the Sarnia Cavern Operators Group.

**Mr Michael Brown:** Mr Chair, while Mr MacDougall is coming forward, could I just ask that the ministry or the parliamentary assistant supply for us a list of the stakeholders that the regulations will be distributed to and a copy of the checklist that we hear referred to during the pilot project so that we might see that.

**Mr Klees:** Mr Chair, I don't have a problem with that. We'll be pleased to do that. In fact, we're open to some suggestions as to who should be on that stakeholder list, if you'd care to suggest anyone.

**The Chair:** Thank you.

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#### SARNIA CAVERN OPERATORS GROUP

**Mr Chair:** Mr MacDougall, welcome to our committee. The floor is yours, sir.

**Mr Neil MacDougall:** Good morning. I've distributed to the members of the committee a brief overview of what I plan to speak about today and I've made the rather brash assumption that most members of the Legislature might not be familiar with some of the storage cavern operations that are currently under way in Sarnia and have been since about the 1950s.

Storage caverns are created by a solution mining out a bed of salt that's about 2,000 feet underground. Some of these caverns can be upwards of 100,000 barrels and they store a multitude of hydrocarbon products which are used to produce a variety of products from class 6 to rubber and are quite crucial to the industry in the Sarnia area.

About 50% of hydrocarbon storage capacity is in the Sarnia area, and the most recent caverns were developed in the early 1980s. They're essential to compete in the global markets mainly because margins are so tight. In the hydrocarbon areas a few cents per pound on a large-commodity chemical can make or break an annual profit for some companies. As a result a lot of companies will margin themselves out by hopefully buying products at a low price, storing them underground and hopefully selling them at a later date to be able to reduce their costs of operation.

The current legislation is going to improve the regulatory requirements for a lot of cavern operators in Sarnia. Currently we have a group called the Sarnia Cavern Operators Group which meets three times a year, and it's pretty well all of the member companies in the Sarnia area and across in the state of Michigan, to discuss the

very regulatory issues that might be occurring both in the United States and Canada and to discuss safety issues. We all share technology and try to make sure that everybody's operating in a safe and efficient manner.

In the current legislation under the Petroleum Resources Act, there are no real regulations for the operation of a storage cavern. Right now in the industry we pretty well have committed ourselves to following the current CSA standard which was issued about two years ago. As a group of members we are committed to following the standards and the various safety requirements in a standard.

In the province of Alberta they have made these regulations a part of their provincial legislation and perhaps have enhanced or improved some of the existing — they're using the standard as a bare minimum in Alberta. The intention would be that the regulations created by Bill 52 would probably follow along similar lines to the CSA standard, which would be quite agreeable to the industry because we're already following that standard. If anything, Bill 52 should help the enforcement of these regulations on member companies.

As part of our cavern operators group we have representation from the Ministry of Natural Resources. They're invited to our meetings every four months.

We have concerns about Bill 52. For the most part there are not many problems, but we have a concern from a cavern operator's point of view. In section 16, under section 67 of the bill, there's a requirement for a trust fund to be set up to help the ministry manage their current lab, which is situated in London. That lab is geared more towards petroleum, oil and gas producers in Ontario. Geologists would use that lab to help them predict where they could drill a producing well, and from the definition of the legislation, a storage cavern is lumped together as being a well, and we would have a licence. We are concerned that we would be forced to pay some sort of licensing fee or a volumetric fee to this trust fund to help fund this lab.

We're not opposed to a user fee. If we did have a requirement to use this facility or information in that lab we would be more than willing to pay a user fee through our geologist. But once our cavern has been developed, there is really no need for us to be continually going back and funding or using the MNR information systems to help us run or operate our cavern. That's the one thing we as a group are concerned about. It seems to be vague about this trust fund and how it's all set up.

The other thing is that, as cavern operators, we would very much like to assist the government in writing the regulations since there are no current regulations, perhaps incorporating the CSA standard into the regulations to make sure that the intent of the CSA standard is followed in the proposed legislation.

On the whole, there's not too much that really affects us. If anything, it encourages the use of proper standards in the legislation. On the whole, the industry is not really too concerned from a cavern operator's point of view of the legislation, especially since you're really trying to combine everything into one bill.

I realize that the MNR is going to reduce the number of inspectors in Ontario, but for the most part the indus-



try is self-regulating; in our group we try to regulate ourselves and help each other and try to develop and safely operate our storage caverns. I know it's hard to believe, but I think we're actually one step ahead of the current legislation. We have not waited for the government to tell us what to do. We have already been following the CSA standard for the last couple of years.

That's the end of my presentation. I was told to keep it to 10 minutes and I know it's getting close to lunch, so I'll just leave it at that.

**Mr Tilson:** You made some comments with respect to section 16, that you had some concerns with that section. Has your group had an opportunity for recommendations to this committee, any specific amendments?

**Mr MacDougall:** There is one recommendation we might have: if they're looking to fund an information management system like that, perhaps an initial instalment to set up a trust from the government and then, as people use the system, charge them a fee to use it. That way there's an initial startup fund for the lab, but charge people an appropriate fee to use the system and find the information they want.

Today is the age of user fees. If someone wants to have the government search for a special sample or get some geological information, charge them \$100 an hour as a search fee. I don't think we're opposed to that. We would just like to have it a bit more specific. Instead of saying, "Everybody who has a well in the province is going to be charged \$1,000 per well on an annual basis," we'd rather see the people who are using that service be charged to use that service. If we have to use that service, we'd be more than willing to pay to use that service.

**Mr Tilson:** In addition to that, is there a use for a trust fund such as this for the other specifics?

**Mr MacDougall:** I would say if the government wants to get out of funding that service, this is a very good way to do it, to set up a trust fund, but the way you give the initial seed money to that trust fund would be an issue we'd like to have some discussions with the government about.

**Mr Klees:** The CSA standard that your industry is complying with now that you indicate is voluntary is, as you're aware, a regulation under the Petroleum Resources Act, so it is very much a part of the regulatory system today, but I appreciate your comments. Could you give me a very brief comment about how competitive you feel your industry is with your neighbouring jurisdictions and what, if any, impact this act would have on your competitive position?

**Mr MacDougall:** Competitive in what way? From a financial point of view?

**Mr Klees:** Yes.

**Mr MacDougall:** Depending on the member companies — it's competitive in the fact that we have companies like Shell Canada, Imperial Oil and Sunoco all making a gasoline fuel — so it depends on the size and shape of the cavern and the amount of capital that people have invested in the cavern. For example, some member companies might not have a suitable safety system or may not be up to the latest technological requirements, but you might be able to force everybody into an equal playing field so that a company that is really committed

to the standard might be forced into updating and continually improving its safety systems on the caverns.

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For the most part everybody has safety systems, but as we continue through and more technology is developed, and the use of capital to upgrade, I think if everybody could be levelled into an equal playing field under regulations so that everybody has to continually upgrade the technology for their safety systems, on the whole that would be a general agreement for our member companies.

We're all concerned that no one wants to have an incident which would put everybody in a bad light. That's why in our association we want to make sure everybody is committed to updating and running our safety system. We encourage each other to update our caverns and inspect them on a regular basis and make sure they're up to current standards.

**Mr Michael Brown:** Thank you, Mr MacDougall, for coming today. I just have some questions for clarification. Would all the operators of caverns in the Sarnia-Lambton area be members of your group?

**Mr MacDougall:** Yes.

**Mr Michael Brown:** So they're all major companies.

**Mr MacDougall:** Yes. As you can tell from my overview here, pretty well every major company has appointed a representative to our association.

**Mr Michael Brown:** Would there be large divisions? How many people would be involved with the caverns in terms of employees?

**Mr MacDougall:** I think all the member companies are very dependent upon their cavern operations. We're talking extremely large volumes of hydrocarbon, and the safest spot to store them is underground in storage caverns. Let me put it to you this way: If we didn't have the salt cavern bed that's currently situated in the Sarnia-Lambton area, I doubt if there would be a petrochemical industry in Sarnia-Lambton. There's no way it would be competitive.

**Mr Michael Brown:** It provides storage from the pipelines that feed in.

**Mr MacDougall:** Exactly.

**Mr Michael Brown:** What you're telling me is that this industry has not been specifically regulated. I'm getting mixed messages from what the parliamentary assistant just said, but specifically there weren't regulations to deal with you and you've been following CSA guidelines.

**Mr MacDougall:** The CSA standards only came into effect in the last couple of years. The industry in western Canada helped develop a standard with some input from the Ontario industry. When that standard came out we were looking for something that would help us to bring our storage caverns up, on a Canada-wide basis, to the same standard.

In the United States, in the Gulf coast areas they were much further ahead of us, especially in the state of Texas, as to what safety requirements were, so we were playing catch-up all the time. It was welcome news to us that we had a Canadian standard we could follow.

**Mr Michael Brown:** What kind of petroleum products would be stored? Would you go all the way from crude oil, natural gas and then various products of the same —



**Mr MacDougall:** It would be more of what we in the industry would call light hydrocarbons which, for example, would be propane in your barbecue, butane for cigarette lighters. The lighter hydrocarbons that don't normally exist as a liquid at room temperature and pressure we can store safely underground.

If we needed to store them above ground, it would be a tremendous site because we'd have to have almost 17 acres of very large storage spheres. The types of products we store underground are liquids or gases that normally wouldn't be in a liquid state at room temperature.

**Mr Michael Brown:** They are products in and of themselves, generally speaking. They've been through the refinery or been to Nova or wherever. They've been processed.

**Mr MacDougall:** Alternatively, if they're feedstocks for the refinery or possibly fuels for the refinery.

**Ms Martel:** Thank you very much, Mr MacDougall, for making the presentation. I want to return to some questions about the trust fund, if I might, because I've been trying to sort out what the difference is in the trust fund proposed by the government in the new legislation in conjunction with or in association with some of the resources that are already established; for example, the petroleum resources laboratory or the centre.

Earlier we had a presentation from the Ontario Petroleum Institute and the folks encouraged us to very much provide a modest increase in the budget to those facilities. I guess my read of the current legislation in front of us, given what I see will be the responsibilities of the trust fund, is that in fact the trust fund might very well replace all of those things, and so the government will withdraw its funding completely and it will be entirely financed by the private sector.

I'm not sure if that's your read of it. I've been trying to get an understanding of what the difference is between the fund, as here, and what those labs do. Do you use the lab? Can you give me some idea of where we're heading?

**Mr MacDougall:** Specifically as a group we do not use that lab. The Ontario Petroleum Institute uses the lab on a regular basis because they're constantly searching for oil and gas deposits in the province of Ontario.

We already have developed our caverns. They're already there. They've been there for a number of years, and the only way we would ever want to use that sort of facility would be if someone decided to drill and develop another cavern, at which time, as a group, we would say we'd be more than willing to pay that fee to use the lab. But we don't want to be lumped together with a producer, because we're not using that facility on a regular basis. If we need it, we will use it. We're more than willing to pay to use it, but we're not on the same — although the proposed legislation groups us together with the producers, we are not along the same line when it comes to this lab. We don't use it on a regular basis.

**Ms Martel:** So your concern or what you're relating to us is that the government then intends to, in essence, privatize what has been a public service so far. It needs to be a user-pay service because you don't use the facilities that are currently provided.

**Mr MacDougall:** Exactly. If you just blanket it all, it's just another form of taxation for us because we're not a regular user of that facility. The members of the Ontario Petroleum Institute, I'm sure, use that facility on a weekly basis to look at the geology to develop or look at potential areas for oil and gas development. We just do not use that facility at all. We don't want to be lumped together, just to have a blanket statement from the Legislature saying everybody who has a licence has to pay \$1,000 per well. Under the current definitions of what a well is, we would fall into that category, and we feel that would be an unfair tax on our industry.

**The Chair:** Thank you, Mr MacDougall. We appreciate your input.

Our next presenter is Peter Graham, the property manager for Canada Building Materials.

**Mr Klees:** While the next speaker comes, could I just offer the committee some clarification? Ms Martel, specifically in response to your question, I can confirm for you that it is the intent under this legislation that those services, that lab service, would in fact be taken over totally by the industry. I think the previous speaker alluded to that in his comments, that the industry, through discussions with us, has agreed that they are prepared to assume that responsibility. I didn't want to leave any question on that point.

**Ms Martel:** Could I just ask for clarification? That was a different set of circumstances than I heard the Ontario Petroleum Institute presenters make. I heard them very clearly say they had experienced cuts and they would like the government to give a modest increase to those operations. So when we say the industry wants to take it over, I'm not sure which part of the industry is wanting to do that. That was not the message I got from the first presentation this morning.

**Mr Klees:** I think what I heard them say is that, yes, they would have preferred the government to add some additional funding. I think they also realized the reality of the circumstances in the province today and, as a result of discussions with us, have agreed to take on that responsibility through the trust.

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## CANADA BUILDING MATERIALS

**The Chair:** Mr Graham, welcome to our committee. You have 20 minutes. The floor is yours, sir.

**Mr Peter Graham:** By my watch, I guess we're right around the noonhour, so I'll go with good afternoon. My name is Peter Graham. I am the property manager for Canada Building Materials, better known as CBM, and I'm here to voice CBM's general support for Bill 52.

Canada Building Materials is an operating division of St Marys Cement Corp, a privately owned Ontario company founded back in 1912. CBM was founded in 1930 and has continuously produced high-quality concrete products, including ready-mix concrete and aggregates, concrete block, precast concrete and calcite brick.

As one of the largest ready-mix concrete and aggregate producers in Ontario, CBM employs over 750 people and injects millions of dollars into the Ontario economy every year. Aggregate products include stone and sand for



concrete, screened sand for asphalt, granular A and B for road construction, as well as brick and block sand for masonry construction.

CBM has been and continues to be committed to operating its facilities in accordance with all established planning and environmental regulatory requirements. This is done by diligent application of technically proven protection measures and by cooperating with government officials in developing improved methods of regulation.

CBM concurs with the Common Sense Revolution's component to "cut barriers to job creation, investment and economic growth," which includes actions to reduce red tape and the regulatory burden and eliminating duplication while maintaining a high level of environmental protection. We also support the development of regulatory partnerships with industry and government.

CBM has been a long-standing member of the Aggregate Producers' Association of Ontario and agrees with their approach to foster a partnership with the government in order to share responsibility for the future in terms of regulatory and legislative compliance and aggregate resource management. Specifically, we are in support of the new, innovative and positive approaches embodied in Bill 52 related to: (1) self-monitoring; (2) new licensing application processes; (3) the rehabilitation security system; and (4) the abandoned pit and quarry fund.

As far as self-monitoring is concerned, CBM possesses 17 Ministry of Natural Resources licences across Ontario at the present time. Following training by the MNR and APAO, our company personnel has completed 12 self-assessment reports to date, with the remainder to be completed by September 20 of this year. CBM strongly supports the self-assessment initiative as a proactive, positive and credible move forward. It is the cornerstone of Bill 52 and the government's new approach to aggregate resource management. We believe that self-assessment provides us with an excellent opportunity to reinforce our company's position of being a responsible operator, one that can be trusted wholeheartedly. We see it as an incredible chance for us to enhance our credibility by ensuring each and every one of our sites is thoroughly inspected and legislative requirements and conditions are adhered to.

I truly believe this industry-government compliance partnership will help us to be a better operator because company personnel will enhance their working knowledge of the Aggregate Resources Act, licences and site plans.

Self-assessment will also provide the MNR, which is still the enforcement agency, more time to ensure all sites are in compliance. If MNR focuses on the bad actors in the industry, overall industry compliance will be greatly enhanced. Self-assessment will raise the level of compliance, to the benefit of us, the industry, and the communities in which we operate.

The onus is on us as a company to complete the self-assessment reports in good faith, accurately and in a timely fashion. It is our name that is on the line here, so it is in our best interests to perform the inspections in a detailed, comprehensive and consistent manner. In fact, it is also our dollars that are on the line here. If even one of our sites is inspected by the MNR and found to be out of compliance and our licence is suspended, it is more than just our company image that we're losing.

As far as the licence application process is concerned, CBM strongly supports a more efficient, streamlined licence application process that is based on provincial standards, standard licence conditions, and one that is proponent-driven.

As an example, CBM owns a parcel of land near Cannington, Ontario, which we are in the process of licensing in order to extract aggregate. This licensing process began over eight years ago and has cost us to date well over half a million dollars. Innumerable studies had to be undertaken, including biological, visual impact, hydrogeological, traffic, noise and dust, to name a few. The licence application proceeded to the Ontario Municipal Board, where a hearing was held that lasted 28 days, a hearing where over 15 witnesses were called to substantiate their findings. What we thought was the final OMB decision was reached on October 5, 1995, and decided in our favour.

Unfortunately for us, under section 43 of the Ontario Municipal Board Act, the public has appealed this OMB decision and they have yet to come to a decision on this appeal. This, remember, is now over nine months since the initial OMB decision. This is a prime example of the extreme cost, time delay and uncertainty associated with the existing licensing process. We believe Bill 52 will help alleviate such a time-consuming, costly and inappropriate licence application process.

CBM is in support of Bill 52 and specifically the Bill 52 proposed changes that would allow the OMB to make decisions regarding the issuance of licences but where the support for the determination of licence conditions would remain with the Minister of Natural Resources.

The final area I'd like to comment on is the rehabilitation security system. CBM is in general support of the new rehabilitation security system that we believe will provide far superior protection and assurance that sites will be rehabilitated. This superfund system will ensure that sufficient money will be available to rehabilitate any site that is in need. We are willing to put our money where our mouth is in order to improve our industry's image and credibility.

We currently consider both progressive and final rehabilitation a normal requirement and activity associated with operating our business, and we are committed to continuing this in accordance with our site plan requirements. As an example, there is approximately 250 hectares of area to be extracted at our Sunderland pit, which is just southwest of Sunderland, Ontario. Of that 250 hectares, over 50 hectares, or 20%, has been progressively rehabilitated.

Thanks for the opportunity to provide my company's views. I'd be pleased to answer to the best of my knowledge any questions you might have at this time.

**The Chair:** Thank you, Mr Graham. We have four minutes per caucus, beginning with Mr Brown.

**Mr Michael Brown:** A good presentation. I was really interested in your comments regarding the eight- or nine-year delay in getting a licence, and I think for all people that would be unacceptable.

I'm just wondering, though: Corporately you would obviously presume to do all the same studies that were required. Were previous acts — not just this one, but



other acts that might impact on your particular business — requiring you to gather information you thought was extraneous and not really useful to your business or to the public interest?

**Mr Graham:** I think some of the studies are necessary and useful, but we just felt it was beyond what was required. In Bill 52, with the way it is proposed to be set up, specific studies will be laid out depending on what type of operation or area you're looking to extract material from. That's fine, but this we felt went beyond what was necessary. Especially when you go to an OMB hearing, obviously you want to be as prepared as possible.

**Mr Michael Brown:** What you're telling me, just so I understand, is that just to be prepared for the OMB hearing, you were forced to spend money on consultants and engineering that was really extraneous but you don't want to go in half armed; you want to be assured that you can answer every conceivable question, relevant or not.

**Mr Graham:** Exactly. Some of those studies would have been done anyway, but it went well beyond that.

**Mr Michael Brown:** So do you have a level of comfort that — I have no idea what's going to be required through this. That is apparently to be done by regulation, and that appears to be generally well thought of by the industry in that it will be in regulation.

I should just point out that governments do change and regulations can be changed on a moment's notice almost, at least in government terms: 90 days. You can change the entire world, if regulation is how things are going to be done, without any consultation, without any kind of input from your industry or any other. What we've been arguing here is that these should be put in the legislation so that there is a standard not only for now but into the future, because I'll tell you, legislation is quite a bit more hazardous for governments to change.

I just wondered if you would prefer to see these standards put in regulation and that there be public input to the regulation.

1210

**Mr Graham:** Before the act is passed, you mean?

**Mr Michael Brown:** Yes.

**Mr Graham:** Traditionally that's the way we've gone, and I guess in preference that would be the way to go, but we're willing to —

**Mrs Pupatello:** Trust.

**Mr Graham:** — trust the government.

**Mr Michael Brown:** It doesn't make any difference in terms of time lines. You're still not going to be governed by this act till the regulations are proclaimed.

I'm having difficulty with the government, not with you.

**Ms Martel:** I want to follow up on your views of why you feel the bill will make all the processes that you've gone through and all the frustration much better so that you won't have to do those things. You said to Mr Brown that you felt there were probably some things that go into the regulations which would clearly outline the studies and everything that would be necessary for you to put forward to get a licence. Do you know what those things are yet? Have you been involved in any kinds of discussions with MNR or anyone else as to what will be required?

**Mr Graham:** To this point no, but I trust we will have the opportunity to view those and have our opportunity to comment on those.

**Ms Martel:** I'm just a little bit curious, because as I read from your brief, clearly you feel there are some benefits to be derived by the change in process but you haven't and we haven't had the benefit of seeing what those changes are. So I'm just curious how you come to that decision if neither you nor we have had the benefit of seeing what those changes would be.

**Mr Graham:** I think it comes down to an issue of trust again. We're willing to put our trust in both the industry and government and in that partnership to work together to get a more streamlined method. But you're right. Not having seen them, it's difficult.

**Ms Martel:** It's difficult for all of us to make that determination.

One of the changes that I think would probably help you is under the act, certainly, after you go to the OMB, that's the end of it. I don't know: Is that where your application now sits? Is it a judicial review?

**Mr Graham:** Yes. Under section 43, the public is allowed to appeal. It would take a considerable amount of time to go into specific details of this example, but it's getting to the point of ridiculousness as far as how long it's been stretched out and how long we've had to wait and how much more additional money we've had to put into the wait for this final decision to come through, especially when a decision was made and now it's being appealed. It's a little frustrating and time consuming.

**Mr Tilson:** Just a brief question. I think we're all amazed at the story you talk about on page 3, about a licensing process that takes eight years. You have suggested that obviously in your view there was an overkill of studies that were required.

For a government to prepare regulations, do you have any recommendations as to what minimum standards should be? Obviously that might take a long time to describe now, but has your group philosophized as to what minimum standards should be to prevent that inequity happening?

**Mr Graham:** There have been plenty of discussions. Again, I haven't been involved on a personal level with those at this point, but it's my understanding that there are some things that have been laid out on paper. But there's nothing that I've seen to date. Obviously it will depend on where you want to extract materials and —

**Mr Tilson:** I'm sure Mr Klees, as the parliamentary assistant, will be noting your name and will be communicating in the future for advice on that topic.

**Mr Graham:** I'd appreciate that. Thank you very much.

**Mr Klees:** Thank you for your comments today. You indicate in your brief on page 3, and I'll just quote this because I found it interesting, that "this industry-government compliance partnership will help us to be a better operator because company personnel will enhance their working knowledge of the Aggregate Resources Act, licences and site plans." Could you just elaborate on that for me?

**Mr Graham:** I'm specifically thinking of, on my part, as we're structured, there are three regional managers for



the aggregate divisions, western, Toronto and central Ontario, and then eastern Ontario. These responsibilities have been placed in their hands to make sure the self-assessment reports are done properly and accurately and their aggregate operations are run in accordance with legislative requirements. They're taking personal responsibility for this. They have to be up on the act, on their licences and all the conditions that are laid out in their site plans and licences.

**Mr Klees:** So they'll be more knowledgeable post this exercise than they have been in the past.

**Mr Graham:** They have to be.

**Mr Klees:** Obviously there is going to be direct impact on the quality of your industry and the relationships, no doubt, perhaps ultimately, with the communities in which you're working.

**Mr Graham:** Right, and I'm specifically looking, at least in this comment, at self-assessment, how it applies to that.

**The Chair:** Thank you, Mr Graham. We appreciate your attending with us today and giving us your input. We now are recessed until 2 o'clock.

*The committee recessed from 1215 to 1358.*

#### BERNARD CUMMINS

**The Chair:** Welcome back to our hearings on Bill 52. Our first presenter this afternoon is Bernard Cummins. Good afternoon, Mr Cummins, welcome. You have 20 minutes. The floor is yours, sir.

**Mr Bernard Cummins:** Thank you, members of the committee, for hearing me today. My name is Bernard Cummins. I don't represent any interest group whatsoever, other than our own particular interests based on the experience we've had with gravel operators.

My family and I reside in North Dumfries township, just off Highway 401 as you head west. I suspect that you have heard and will hear from a variety of interest groups, including members representing the gravel interests, members from municipal governments, experts of all types with respect to the gravel industry. I hope I can somehow put a human face to this debate, because the anguish this industry has caused us and our community is very great. I really wish to draw on that experience and share with you our concerns, because the present regime that we have is not working. My concern with Bill 52 is that it devolves even more power to the industry. It does not protect the interests of people like me and other residents of communities all across this province.

I must confess that I only learnt about this committee last week and my attendance was only confirmed on Monday, so I come with a sketchy outline of the proposed changes at best. I understand that the government is proposing to streamline the regulation under Bill 52. To me, streamlining the process for approval gives the unscrupulous operators free rein and it is that experience that I wish to draw upon, because we live right next door to an unscrupulous operator. I can tell you, it's not a pleasant experience. I think it's this particular type of operator the public needs to be protected from, and I don't believe Bill 52 in its present form protects us in that regard.

I am sure everyone knows that gravel pits do not exist in uninhabited areas. In North Dumfries township at least they buy up prime agricultural farms that have been in families for generations and they change our communities forever.

One issue that every gravel operator talks about is progressive rehabilitation. Unscrupulous operators couldn't care less about rehabilitation. They're in this industry to make a buck, and I can't blame them, but they have to recognize the interests of the citizens whose rights they infringe.

The operator next to us, or a representative of that operation, appeared at township council about three weeks ago to suggest that he wishes to redevelop that pit into a golf course. The development agreement that he signed with the township stipulates that the pit has to be rehabilitated to prime agricultural land, or for prime agricultural production. Furthermore, there is now a Bell Canada tower of some sort on this particular property. Again, that's not in the development agreement. This pit is supposed to be progressively redeveloped so that it can sustain prime agricultural output.

The residents of North Dumfries township also argued that berms be erected in order that we would be somewhat buffered from the noise and dust that's emitted from these pits. So what happened was that this particular operator plowed the top and subsoils to the perimeter of the pit, even though the development agreement that he signed stipulated that the top and subsoils be stockpiled on the property so that when it is redeveloped into prime agricultural land, the topsoil remains on the top of the land. Now what I suspect will happen when those berms are pushed back on to the property when it is rehabilitated is that the topsoils will be at the bottom and the worst soils will be at the top.

The hours of operation as stipulated in the development agreement for this particular pit are from 7 in the morning until 6 pm at night, and no weekend operation unless it's approved by township council. This operator has been open as early as 5 in the morning and closes as late as 7:30 at night on a regular basis. Last year I approached this operator and I said to him, "Do you not respect the interests of the community, because we were here first?" His response was, "The gravel was here before you." He couldn't care less about our interests. Surely we have some right to enjoy our peace.

I'm not asking that you shut down operators. I'm not asking that they have to work in an environment in which they can't make any money. I recognize that's unreasonable. But surely residents all across Ontario who live in these farm communities, who don't have a powerful voice, have some rights too.

Bill 52 proposes that the public approach the operator with their complaints. Surely what I've just described is evidence as to how an unscrupulous operator couldn't care less about what our concerns are. I've been to township council about enforcing this particular agreement on two different occasions in the past year. I am going to them again in two weeks. We've just had absolutely no luck in bringing this pit into conformance. They signed a development agreement, they said they wanted to be a good corporate citizen and neighbour and



they haven't lived up to their responsibility. That leaves our interests totally unprotected.

The township of North Dumfries says it's the ministry's responsibility to enforce these agreements. The ministry says it's the township's responsibility, it's their agreement, and we're the ones who are left having to endure this. It's just incredible.

I understand — and I suspect I'll be corrected if I'm wrong — that under Bill 52 there is a provision that would allow an operator to extract gravel on a site before it is licensed. I suggest that this would just be a tremendous nail in the citizens' coffin, because presently, one of the few bargaining leverages we have is the opportunity to try to hammer out an agreement with these operators in order that our rights are protected somewhat. These interests aren't that new or profound. They're things like having hours of operation stipulated in an agreement. They're to protect sources of water and have buffering and trees etc. It's really nothing new, but it allows both sides to get together and gives us some leverage to get some of the things that concern us.

If you change that, if you allow a pit to open before any of these things have been addressed, what right does a citizen have then? How do we protect our interests? I suggest we can't, because we don't have a lot of money. We can't take these people to the OMB in every case. We all have jobs and we can't be taking off tremendous amounts of time to do that, or hire lawyers to protect our interests. We need to strike agreements, in a lot of cases, that reflect our interests and protect community interests. If you strip that away from us, we are left unprotected.

One of my final points is that we moved to the country in about 1976. It had always been a dream of my parents. They've worked for another 20 years to try to build up our property. This particular operator causes us a great deal of stress and consternation. As I said near the outset, we're not asking that you halt all gravel extraction. I'm not asking you to shut the industry down. I'm just asking that when you are in your deliberations, you reflect on the rights of people like myself and other people who don't have a strong voice, who don't have the resources that these operators have but do have interests and do have families and do have farms and do live in communities. I ask that you have a regime that ensures that when development agreements are signed, they can be enforced. Bill 52 in its present form, in my opinion, doesn't do that because the present regime isn't doing that.

1410

Finally, I'd like to ask, what effect will Bill 52 have on these existing agreements? In our case it's not being enforced. I think there should be a provision that grandfathers these agreements so that we're not left in this total abyss without any agreement and without any ability to enforce it with this particular operator. He's clearly demonstrated, he's even written public letters to council, that he doesn't think he has to abide by this agreement.

If I can part with perhaps a rhetorical question, if we had the Criminal Code in existence without any police officers on the street, would anybody abide by it? Of course they wouldn't. Right now, we have a development agreement with a pit. It's not being enforced and it's not being abided by. If you strip away those powers, if you

strip away the ability to strike an agreement with these pits, if you put all the powers in the hands of the gravel industry to police itself, I can assure you, based on our experience with this pit and with other pits in our township, nothing will happen. It's not the good operators we're concerned about, quite obviously; it's the unscrupulous ones. It's the ones who don't care about our community. When they leave the pit, they won't redevelop it or they won't rehabilitate it. They'll be gone, and we're the ones left with the mess.

Issues like noise and dust and hours of operation, site rehabilitation, site maintenance, environmental concerns, enforcement of these development agreements — none of these things I have raised are new. I know they're issues that you've heard before from different interests, but these are issues that affect us very profoundly in the way that we can enjoy our property and try and derive something from working all day.

The problem is that all these pits are settling, obviously, in agricultural communities and, as I've said, we don't have a strong voice. But this sort of conduct from this type of pit — and I'm sure there are more of them across Ontario — wouldn't be tolerated in an urban setting; people would be infuriated. But because we are virtually a lone voice, because we don't have the support of a lot of farmers — they're being offered three-quarters of a million dollars to sell their farms to a gravel company. They don't share our concerns either. That is why we need the government, that's why we need legislators to protect our interests, because otherwise we don't have a voice.

I conclude, Mr Chair, by suggesting that these issues are real. The stress it has caused our family and our particular community on Oaks Road is real, and the damage it has caused to North Dumfries township and the divisiveness that has occurred are also very real. I ask with the greatest of respect that you, the legislators, rethink this draft bill so that people like myself and my parents and our neighbours, wherever they are in this province, can somehow live at peace on their property and that you strike a proper balance that may acknowledge the interests of the gravel industry but doesn't sell the interests of the community down the river.

**Ms Martel:** Thank you very much, Mr Cummins, for your presentation, which was obviously a very powerful one and very difficult for you to make. So I probably won't ask a question as much as I will make this comment. When I spoke on second reading about this bill, I raised with the government my concern that as much as anything else what we do in our roles as government is to try and protect the public interest, to make sure the public has a role in what our development is but also that we give the greatest assurance to the public that environmental and other things are being met.

My concern with this bill continues to be that with the significant downsizing of staff at MNR, there will be a very significant effect on the ability of those inspectors who are left — and we don't know what their numbers are going to be — to even go after the bad apples.

Sooner or later we are going to have a huge environmental problem that will blacken the eye of the entire industry, so surely it's in the industry's interest to be very



clear that what we have in place when this bill is done are not only some rules that people are comfortable with, but we have enough people to enforce what they're being asked to enforce and to make sure we have the ways and means to go after people who don't want to operate within any rule.

I continue to be very concerned, because we haven't been given the numbers yet as to what staff are going to be left, that at the end of the day when this goes through we aren't going to be able to do that, we aren't going to be able to protect the public interest. It's folks like you who are going to end up suffering and, frankly, the industry is going to end up with a bad name, when most of the players in it don't deserve to have that.

**Mr Klees:** Mr Cummins, thank you for your presentation. I want to assure you that we take to heart your comments. I want to provide you with some level of comfort regarding this legislation and draw your attention to the new section 20 of the legislation that deals exclusively with such items as licence revocations, allowing the minister to suspend permits for an unlimited period of time until the pit comes into compliance with the terms under which they were given to operate.

We share your concern and we heard over the last couple of days from good operators that they themselves share that same concern you have, that there perhaps are operators within the province who aren't operating according to the rules. They have a concern about bringing them into line as well. I want to assure you that this legislation strengthens the government's commitment to inspection. Although there will be perhaps fewer individuals involved in the Ministry of Natural Resources overall, one of the things this legislation will do is to allow the inspectors we do have to spend considerably more time at the business of inspection rather than being involved in many administrative issues as they are now.

**Mr Michael Brown:** I appreciate your presentation. It highlights one of the difficulties obviously there is in aggregate extraction, and that is, there are neighbours. When you have neighbours, you have to find an efficient and effective way of looking after both the neighbours' and the industry's interests. I am very concerned. I don't think the administrative ability will be there with the far fewer inspectors to guarantee that.

One of the things, however — it just came to my mind right now — that happens to be in a rather similar bill, the Crown Forest Sustainability Act, is that there's a requirement for someone holding a licence under that act to have a community liaison committee that works with the operator. Many of the major operators in the forestry industry have been doing this far in advance of the legislation requiring it, just because it enabled both sides to resolve their problems in a meaningful way. Do you think that would be a helpful addition to this act, some kind of requirement for operators to form a committee that's acceptable not only to the company but to MNR and the community? What it does is sort out some difficulties. Sometimes they're just communication difficulties.

**The Chair:** Mr Brown, are you going to give the gentleman the chance to answer that?

**Mr Michael Brown:** Yes, sir.

**Mr Cummins:** I don't believe it will. If I can suggest, perhaps our local township government serves as a crude form of a community liaison and we've had absolutely no success in getting this company to come into conformance. Their latest tack now is to suggest that the development agreement was signed under duress, even though they had the advice of their lawyer, and therefore they don't need to abide by it. You simply cannot talk to these sorts of companies or these sorts of individuals, because they're not interested in being a good corporate citizen.

With respect to Mr Klees's comments, if I can just briefly respond, I don't think that having fewer inspectors will somehow bring this type of companies into conformance, because it isn't now. You have to have some mechanism in place that allows the community to have its voice heard. If you strip away all that and put it in the hands of the industry, you're not going to protect the interests of people like us.

**The Chair:** Thank you very much, Mr Cummins. We appreciate your input into our deliberations.

1420

#### ELEXCO LTD

**The Chair:** Our next presenter is Jack Norman from Elexco Ltd. Good afternoon, Mr Norman. Welcome to our committee.

**Mr Jack Norman:** Thank you very much. I am here today representing Elexco and that segment of the oil and gas industry in southwestern Ontario that is affected by the land segment of Bill 52. Land is the method by which exploration companies acquire the rights to explore, drill and produce the oil and gas reserves. Elexco is a land service company that has provided land and rights negotiations, title work, drafting and lease maintenance to the oil and gas industry for the past 20 years. During that time, we have represented major oil companies, large independents, utilities and small oil and gas producers.

The one common thread between the large and small explorers has been the frustration they have had in dealing with the Petroleum Resources Act, the Energy Act and the Ontario Energy Board Act. These acts combined provide the mechanism to allow oil and gas explorers to achieve their goals, but not in a timely and cost-effective manner.

Before I get into specifics, I would like to say that I support the direction Bill 52 is going and the method that will be applied, providing the industry benefits from the shorter time frames we have been assured will exist.

The two land areas I would like to address are pooling and unitization. Historically, when a drilling spacing unit is established, if the interest in that spacing unit is not held by the company intending to drill the well, a licence to drill can be obtained from the Ministry of Natural Resources, petroleum resources section, that would give you the right to drill the well but would not give you the right to produce the well.

If a company chooses to drill the well and the well is successful, it would be required to negotiate and obtain the missing interest from either the holdout land owner or the opposing lessee in another oil company before it



could produce. If they fail in these negotiations, their only other choice would be to make an application to the Ontario Energy Board to have the joining of interest to allow the well to be produced. This application can take as long as one or two years to get before the board and would cost from tens of thousands of dollars to hundreds of thousands of dollars, depending on the complexity of the problem and the resistance to the application. Of course, their other alternative was not to drill the well. As you can see, choosing between not developing a project and having a very expensive board hearing are not exactly the two choices which oil and gas companies would like to be left with.

For the past 20 years or so, the industry has supported the idea of an individual or committee similar to those set up in oil and gas jurisdictions such as Alberta and Michigan to handle these disputes in a fair, equitable manner without a large cost to the participants. We feel that if the commissioner is qualified to judge these disputes and deals with them in a timely fashion, this system could work. If, however, it is not handled fairly and quickly, then I do not see where this system will be any better than the one presently in place to handle these pooling problems. Oil and gas exploration is a risky undertaking, and it behooves the legislators and regulators to ensure that intended-use roadblocks do not burden the enterprise from the outset nor create inequitable opportunities for the non-risk-taker.

I would now like to talk about unitization for a couple of minutes, but first I'll explain the difference between pooling and unitization. Both the industry's and the Ministry of Natural Resources' definition of "pooling" is the joining of interests to establish a drilling spacing unit; "unitization" is the joining of interests to establish a production unit. These drilling spacing units can range in size from six and a quarter acres to 50 acres, depending on the depth as defined by the Petroleum Resources Act.

In the case of the production spacing unit, the Ministry of Natural Resources could determine that if a producer is allowed to produce a gas well from a drilling spacing unit, they could drain the adjacent units with no compensation to any other parties holding an interest in those areas. The ministry would therefore require the exploring company to establish a larger unit which would cover the area it believes would be affected by the production of this gas well.

This area affected could range from something slightly larger than the original drilling spacing unit to a number of hundreds of acres, which could bring a large number of participants into the play and again require the exploring company to attempt to negotiate the rights of all of these interests prior to being allowed to put the well in production or recover any of their investment. The area in southwestern Ontario most susceptible to this at the present time is the Lambton county reef trend, where a single well could very often produce all of the gas from a single reservoir, which, again, could be hundreds of acres in size.

As I understand the mechanism under Bill 52, I could see an instance where an explorer could be forced before the commissioner at the pooling stage to have the interests joined to allow for the drilling of the well and then

have the Ministry of Natural Resources require them to create a unit and find themselves back before the same commissioner to establish a production unit, and in both cases they could be held up by the same resisting interest holder.

I would like to emphasize that we in the land segment of the oil and gas industry believe that with the implementation of Bill 52 there is a real potential to significantly reduce some of the extreme costs and time delays we have seen in the oil industry over the years. If the government has a desire to assist our industry in the exploration and exploitation of the oil and gas rights, then Bill 52 will certainly be an asset.

In closing, I would like to make a couple of important points. From the oil and gas explorers' standpoint, they only want to be allowed to drill a well where they believe the oil and gas is located and to get the oil and gas, if found, into production as quickly as possible to enable them to recover their investment.

The last point I would like to make is that it's extremely difficult to encourage the investment community from Toronto or Montreal and the oil industry from Alberta or throughout the US to come and invest in the Ontario oil and gas industry when it is perceived to be a province whose acts and regulations do not encourage or aid oil companies in their high-risk investments.

**Mr Tilson:** Sir, thank you very much. I have two questions for you. One has to do with your comment about the extreme costs, and you gave an example of it costing thousands of dollars with respect to pursuing an application, and finally, the length of time it takes. Critics will say that to lessen those requirements will have an effect on our environment. Do you have an answer to that criticism?

**Mr Norman:** The delays we've had over the years were never environmental issues. The delays we had with the Ontario Energy Board, for the most part, were simply getting in front of the Ontario Energy Board. They're required to deal with things like rate base hearings for the utility companies, gas storage applications. The huge amount of technical information, for the most part, had to be obtained by the Ontario Energy Board, by people who weren't capable of evaluating it technically. Of course, what they would have to do is pull in the petroleum resources section's technical people to assess it. So most of the time delay was not in an environmental impact type of situation, as it wouldn't be now.

**Mr Tilson:** The final question I have for you is as a result of one of your other comments. Talking about other jurisdictions, certainly we in the government have been concerned about the difficulties in investing in this province because of the overburdening of regulations and requirements to do business in this province. Can you compare regulations in the business to other provinces or other jurisdictions? It could be in the United States.

1430

**Mr Norman:** I'll use Alberta as the example because that of course is our most active Canadian oil and gas province. In Alberta, what they did years ago was set up a board to handle disputes. When I say "disputes," the disputes don't necessarily have to be between a land owner and an oil company. It could simply be a dispute



between two oil companies that have different interpretations as to where a reservoir may exist. Technical information is simply sent to that board and the board makes the decision. I guess the upside from where the Alberta standpoint is concerned is that the question is really not whether you're going to be able to go forward and explore or exploit the oil and gas reservoir; it's just who gets what share. They're going to set the rules, they're going to do it quickly and business moves forward.

I've probably used unfair examples. As we all know, Alberta has pretty much got all the oil and gas and the government owns the minerals. But they have a real mandate to make that a large industry, which they have done.

**Mr Klees:** A very quick follow-up question: As you are aware, the punitive measures to the industry not being in compliance have been significantly increased in this act, from \$10,000 to \$500,000. Also, the statute of limitations for an offence has been extended from six months to five years. Could you comment on the impact that these measures would have on your industry?

**Mr Norman:** You are moving a little out of the area that is my expertise, which is the land part, not the production part. I think as an industry, though, we can see the fact that under the old act and old regulations that are here in place they are as unfair; as an example, the proposal that's being made as to the value that should be put into a bonding situation. Bonds are too low today. They don't protect the surface owner. They don't protect the government. Those kind of things need to be changed, but they need to be changed in similar fashion to those existing in other oil and gas jurisdictions: Ohio, Michigan and Alberta.

**Mr Michael Brown:** I have really appreciated this presentation because, quite frankly, I'm on the steep end of the learning curve, when it comes to this particular issue anyway. I would be interested, and I'm sure the committee would be, in the process that is available in Alberta. Essentially, what you're talking about is commercial interests, how to settle the commercial part of these issues. Is it between land owners or different oil companies on the same reservoir pool of natural gas, or whatever?

We don't know because we haven't seen the regulations about how the Mining and Lands Commissioner will actually deal with these issues, and perhaps you would have some comfort if we knew from the parliamentary assistant that it would be a similar method to what is used in Alberta or Michigan or some other jurisdiction that does this in a more user-friendly system.

**Mr Norman:** All we're looking for is something that is fair and is handled quickly. I can think of no incidence in a jurisdiction, for example, like Alberta, where you would ever have to wait two years before you would get before a board to hear your argument. We certainly would like to hear that is going to be dealt with quickly.

**Mr Michael Brown:** I'm just interested for information sake. In Alberta, what would be the kind of time line you might be looking at if there happens to be a dispute? Are we looking at doing it in six months? Maybe it's an unfair question.

**Mr Norman:** It depends on the complexity of what you're dealing with, but in a lot of instances in Alberta

things are handled within days, weeks, let alone months. If it was a major unit that was being disputed, then the technical information simply would stop it from being in a real short period, but you're only talking in terms of a few months. You wouldn't be talking in terms of something that represented six months, a year or longer.

**Mr Michael Brown:** Would it be fair to say that the industry, in general, would favour this kind of resolution and that there aren't portions of the industry that might say this now gives an unfair advantage to the person doing the exploring versus the company that maybe already holds the rights of the land owner?

**Mr Norman:** I don't think there would be any disagreement from the industry. The only disagreements could come from land owners realizing that if the board was going to favour exploration and development, then the longer they can keep it from going before a board the longer that obviously isn't going to happen.

**Mr Michael Brown:** Some land owners may see an expedited process as in some ways eroding their bargaining situation? I'm just thinking out loud here.

**Mr Norman:** Possibly.

**Ms Martel:** Thank you, Mr Norman, for your presentation here this afternoon. I want to go back to one of the concerns that you raised around having an explorer appear before the Mining and Lands Commissioner and having a partial resolution that then might have an additional requirement by MNR which would have that person end up right back before the Mining and Lands Commissioner. I'm not an expert in this field whatsoever, and I wonder if you can just repeat that concern for me, but could you also give to the committee some kind of resolution to the problem that might solve some of your concerns and those of the people you represent?

**Mr Norman:** I'm not sure I'm going to be able to give you the answer — I didn't create the problem — but what I was expressing was that a drilling spacing unit is something that is already predetermined under the Petroleum Resources Act. As an example, on an Ordovician well in Essex county the drilling spacing unit is 50 acres in size. If a house lot was missing from that 50 acres, and there was no resolve to it through negotiations, you would simply have to go to the commissioner.

If, for whatever reason, the Ministry of Natural Resources decided that you were going to drain adjacent spacing units by producing that well, they could compel you to create a larger unit. In doing so, you have to assume that if the person wouldn't sign a lease to start with to allow you to drill the well, why would they sign the unitization agreement to allow you to create the unit? The logic is that it would force you back before the commissioner. I guess the only solution that you would have is that if you've dealt with the problem once you don't have to deal with it again. So if you forced your unit, and if that's the only problem that exists, then you shouldn't have to come back before the commissioner.

**Ms Martel:** So whatever the Mining and Lands Commissioner had agreed to would override any of MNR's further concerns or further requirements.

**Mr Norman:** Sure, it would tie them through the pooling and through the unit process. I don't know if that's fair; I really hadn't thought of what a solution would be.



**Ms Martel:** You were responding to Mr Klees around the bonding issue, and I'm not sure that you got to complete that. We've had other people who have raised some concerns around financial surety, bonding etc, and I wonder if you could just continue on that.

**Mr Norman:** That is a little bit out of my field, but I had heard some numbers, particularly from one of my clients, Pembina, which apparently spoke to you yesterday. They have 1,000 wells in Lake Erie at \$15,000 a well. That's a \$15-million bond. The equivalence that we're aware of is that there are bonds in Michigan and Ohio that cannot exceed, no matter how many wells you have, beyond \$50,000 or \$500,000. It seems strange that in a small oil patch like Ontario you would put that kind of an onus on any one company. I'm just saying the chances of anybody ever walking away and leaving somebody with a \$15-million burden is pretty remote.

**Ms Martel:** So your suggestion to the committee is to take a look at other jurisdictions and what their maximum levels are?

**Mr Norman:** I'm saying take a look at other jurisdictions, yes.

**The Chair:** Thank you, Mr Norman. We appreciate your input here this afternoon.

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#### ORION RESOURCES LTD

**The Chair:** Our next presenter is Robert Trevail from Orion Resources Ltd. Good afternoon. Welcome to our committee.

**Mr Robert Trevail:** I would like to thank you for the opportunity to address the standing committee on Bill 52. I am a geologist by profession and have worked in Ontario's oil and gas industry for over 20 years, in both the private sector, with Ram Petroleums Ltd and Telesis Oil and Gas, and in the public sector as chief geologist of the petroleum resources lab of MNR. Currently I'm president of Orion Resources Consulting Ltd, based in London, Ontario. Orion provides a range of geotechnical consulting services to companies involved in the Ontario oil patch.

The portions of Bill 52 dealing with revisions to the Petroleum Resources Act represent the first substantial changes to legislation governing oil and gas exploration, development and production in over 25 years.

The current act and regulations promulgated thereunder are seriously out of date and impose an impediment to the exploration and orderly development of Ontario's indigenous oil and gas deposits. MNR petroleum resources staff do not have the necessary tools to regulate the industry in an effective manner in today's economic climate.

Regulations have not kept up with the technical advancements in drilling and production such as horizontal drilling and new types of secondary recovery. To compensate, MNR developed a series of internal policies and procedures to deal with the day-to-day operations related to exploration and production activities. In contrast, other jurisdictions such as Alberta, in conjunction with industry, develop and maintain up-to-date regulations and standards which guide the industry in the

orderly development of the province's oil and gas resources.

Recent trends in drilling activity in Ontario also indicate some serious problems exist. A total of 109 wells were drilled in 1994. This total included 56 exploratory, 52 development and one service well. Drilling activity 10 to 15 years ago was at a much higher level, with an average of 200 wells per year.

While the rewards of exploring in Ontario are very attractive, the legislation governing exploration, drilling and production prove to be impediments not only to those companies and individuals currently active but, just as important, to potential investors, whether they reside in Ontario or other provinces or states.

Please note that the Ontario oil and gas companies working today made expenditures of \$29 million and \$26 million for exploration and development activities respectively in 1993. The revenue from oil and gas exploration and production in 1994 amounted to \$90 million. In addition, the provincial government received nearly \$3 million in royalty revenue generated by natural gas production from reservoirs in Lake Erie.

The Ontario oil and gas industry has been working with MNR personnel since 1986 to develop a revised Petroleum Resources Act and a set of regulations that would allow the industry to explore for and develop oil and gas in an orderly manner and in an environment of cooperation and partnership with MNR. The lack of commitment towards this issue exhibited by previous governments has been extremely disappointing to the industry. I am pleased to see that the current government is finally proceeding with these revisions.

As you may or may not know, MNR's petroleum resources laboratory in London, the only facility of its type in the province and recognized as one of the finest in North America, specializes in the collection, generation and dissemination of information and knowledge about the subsurface geology and oil, gas, salt and brine resources of Ontario. The well information, which includes files, drill cuttings, core and geophysical logs, provides the basis for all oil and gas exploration in the province. Although the basic information is static in nature, the interpretations made from the data are dynamic, continually changing as new geological theories emerge and new petroleum engineering techniques are developed. Without this asset, new exploration activities in the province would grind to a halt.

It is my firm belief that the provincial government should continue to fund and administer this important facility. However, in light of MNR program funding reductions, it is apparent that this will not occur. It is also unlikely that a government-administered user-pay system would work, given that in most cases revenue generated through provision of services flows into the consolidated revenue fund rather than being retained by the program providing the service.

In response, the government proposes in section 67 of Bill 52 to provide the minister with the authority to establish the oil, gas and salt resources trust, which will fund the operation and maintenance of laboratory facilities as well as fund information management relating to oil, gas and salt resources.



The funding mechanism for this trust is as yet undetermined. However, a number of suggestions have been put forward by both government and industry. These include a levy on oil and gas production; a levy on natural gas storage volumes; a levy on salt cavern storage volumes; a sample and core processing fee for each well drilled; a membership fee for the use of laboratory facilities, which should be paid by consultants such as myself; and user fees for casual users.

I expect there will be an initial reluctance on the part of some people involved in the Ontario oil and gas industry to participate in the trust fund just because access to the petroleum resources lab and the information contained therein has been free for many years. The concept of a trust fund as a funding mechanism for laboratory facilities and information management is a viable one and should work if both industry and government cooperate fully in its administration.

As previously mentioned, one of the major impediments to new investment in Ontario's oil and gas sector is the lack of a coherent set of rules governing drilling and production operations in the province. Once again I point to Alberta, which has in place standards covering most drilling and production operations such as gas well testing; surface casing minimum requirements and exemptions; casing cementing minimum requirements; well site selection and the surface owner; drilling rig inspection manual; drilling and completions operations guide, and many more.

Section 68 of Bill 52 provides for the development of standards governing oil and gas-related operations in Ontario. At the present time industry, through the Ontario Petroleum Institute, is working with government to develop these standards. This initiative, which began years before the introduction of Bill 52, resulted in the publication earlier this year of the Drilling Guidelines for Cable Tool Drilling Operations and Rotary Drilling Operations, which I believe you saw copies of this morning. I anticipate that with slight modifications these guidelines will be adopted as standards under the new Oil, Gas and Salt Resources Act. Other standards currently being considered include bonding; construction and operation of pipelines and batteries; pooling and unitization; well licence application requirements and procedures; and information and reporting requirements.

Development of these standards will alleviate much of the uncertainty many new investors, both inside and outside the province, have with regard to investing time and money in exploration and development programs in Ontario.

To close, I believe the amendments contained in Bill 52 pertaining to the current Petroleum Resources Act will have a long-term, positive effect on the oil and gas industry in Ontario.

**Mr Michael Brown:** I really appreciate the presentation. Being a member from a northern constituency, the issues that you described are very similar to the issues that get described around core libraries and the geological work that is done by the Ministry of Northern Development and Mines. I'm interested in the user-pay concept in funding this valuable resource to the people of Ontario.

It seems to me that you always have to be careful, when you move into assessing particular fees to particular

groups, that they don't then start to believe it's theirs and they own it, if you know what I mean. If you're the major contributor you want to set the direction in your particular interest.

I wonder how, in your view, the university geology departments or whatever might fit into the scheme of things in expanding the knowledge of all people using this particular resource we presently have. I'm sure they do that now.

**Mr Trevail:** I think it would be the way in which you set up the actual trust agreement other than determining and defining what users will be allowed to do or how they will go about doing it. With regard to universities, since they are doing some of the basic research that is required to explore and develop oil and gas resources, I would see them being allowed in at no charge for access to the facilities. There would still be costs related to photocopying and those types of things that they would have to bear. As for use of the facilities, I would see there would be no charge.

**Mr Michael Brown:** When we talk about fees we obviously start to talk about competitiveness, and there's no one in this province who wants to make us uncompetitive. We've been talking about comparing standards to other jurisdictions, whether they be American or Saskatchewan or Alberta jurisdictions, the major gas and oil producers at least on land in this country. Are our royalty rates and fees presently uncompetitive or competitive? I just don't know. Would you be paying more royalty in Alberta or less?

**Mr Trevail:** You pay more royalty in Alberta than you do in Ontario. But again, royalties in Ontario are paid to the land owners, in which case most of the land is freehold, whereas in Alberta the reverse is true. The province holds the majority of —

**Mr Michael Brown:** The province gains most of the revenue, rather than here.

**Mr Trevail:** That's right.

**Mr Michael Brown:** But even in that case the typical royalty likely would be more in Alberta than it is here?

**Mr Trevail:** Yes.

**Mr Michael Brown:** I'm just trying to wrap my head around this. Okay, that's fine.

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**Ms Martel:** Thank you, Mr Trevail, for your participation here this afternoon. When you were talking about the trust, you mentioned to committee members that several suggestions have been put forward to date with respect to how to create and how to maintain the trust.

**Mr Trevail:** That's correct.

**Ms Martel:** If I heard you correctly you mentioned a levy on oil and gas production, a levy on natural gas storage, membership fees, user fees and two or three other ones, I think. Where are those suggestions coming from?

**Mr Trevail:** Those are just meetings that have taken place between government and the Ontario Petroleum Institute discussing the concept of a trust and putting forward suggestions that we have to explore if the trust is going to be put in place and how we're going to fund it. Both industry and government personnel have been making these suggestions.



**Ms Martel:** Is that just recently? Obviously, because the trust is a relatively new idea.

**Mr Trevail:** That's correct. Since the introduction of the bill there's been discussion on how we would fund it if it actually does come into place.

**Ms Martel:** You also mentioned that drilling guidelines — there was more to that than just drilling guidelines — have been in place and those standards are actually public now, but you also said work was going on in bonding, pooling and unitization, well licence application, and I think two more sets of standards were being developed right now that I missed when I was writing that down. Is that correct?

**Mr Trevail:** That's correct. As we mentioned with the drilling guidelines, this is something we've been working on together over the years to try and establish if not guidelines as regulations, at least guidelines that both parties would agree to follow.

**Ms Martel:** They could be the new standards.

**Mr Trevail:** It could be at a certain point in time. That's correct.

**Ms Martel:** You'll understand when I express my frustration that again we have really concrete evidence of a lot of work going on here, Mr Parliamentary Assistant, around some issues the rest of the committee has not had access to. Mr Trevail has mentioned the work that's going on around the recommendations for the trust and in at least six other areas where there are some concrete examples.

If there's some work going on, I don't know why it can't be made available to the members of this committee. I don't see what the problem is here. I really am frustrated that at the same time that we're trying to deal with the bill in a legitimate way, public presenters come before us and tell us of work that is going on and we have no access to it. I encourage you again to ask the minister to release to the members of this committee the information that can be released so we're in a better position to deal with some of these issues.

**Mr Tilson:** I have two short questions before Mr Klees asks you questions. First, we had a delegation this morning that was talking about the trust fund and contributions that would go to the trust fund eventually. This individual — I honestly can't remember which delegation it was — said that services will be provided by the trust fund and not all people in the industry will necessarily use those specific services. They were concerned that it might be an undue cost to do business if everybody was treated the same. Do you have any comments on that?

**Mr Trevail:** Treated the same in what way?

**Mr Tilson:** If everyone is treated the same and charged the same user fee or makes the same contribution to the trust fund.

**Mr Trevail:** As far as a levy on oil and gas production would go, if that's what we're speaking about, your level of production would determine what your levy would be. If you're a small producer you'd have a small levy; if you're a larger producer you'd have a larger levy. As far as a consultant like myself goes, it would be no different than any fees you have to pay in Alberta and would probably be less.

**Mr Tilson:** So it depends on the business that you do. If you have a certain amount of business you pay —

**Mr Trevail:** That's right.

**Mr Tilson:** The second question I have is a result of what seems to be a flow of similar types of questions to all delegations. For those of you who do business in other provinces and other jurisdictions, is it possible to compare how easy it is to do business in Ontario, in the oil and gas business at least, compared to other jurisdictions specifically in Canada — currently, before Bill 52?

**Mr Trevail:** I think the ease of doing business more reflects, say, for drilling and production, the guidelines that are in place. If they're concrete, you know what you have to do and can't do, this sort of thing, then that will reflect on how you're going to go about doing business. With Ontario there are some gaps in guidelines, that sort of thing.

**Mr Tilson:** Where I was getting to was specifically the length of time it takes to deal with government requirements. Some delegations have been saying that it's greater in the province of Ontario than it is in other provinces.

**Mr Trevail:** On some issues it is, that's correct. As Mr Norman was speaking about, with the pooling and unitization factors there is a long time period. If you're looking at getting a drilling permit, if you go in with everything lined up, with the correct application filled out and the surveys and everything, then you can usually get the permit in a timely fashion.

**Mr Klees:** Mr Trevail, would you consider the discussions you've been having with the ministry regarding the development of standards, productive discussions?

**Mr Trevail:** Productive for which party? As far as Bill 52 goes?

**Mr Klees:** That wasn't a partisan question.

**Mr Trevail:** No. Which party, the government or the industry?

**Mr Klees:** I think we're working collectively on this. Was it productive for the purpose —

**Mr Trevail:** I think to this point in time discussions have been in a more general direction as to how we would like to see things go. Any of the work that has been going on that I'm aware of is more industry putting together its thoughts on what it would like to see developed as standards.

**Mr Klees:** Mr Chair, I wonder if I might respond to Ms Martel's question.

**The Chair:** Okay. I just want to say thank you very much to Mr Trevail. We appreciate your input here this afternoon, sir.

**Mr Klees:** Ms Martel, for the benefit, no doubt, of the people who have come in late, asked me to explain why the issue of standards was not discussed with her or other members of the Legislature. I want to just reconfirm that those discussions are taking place now with the industry. It is considered work in progress. I don't think it would have been productive for members of the Legislature to be part of those technical discussions. But as soon as the draft regulations are available they will be circulated. We look forward to Ms Martel's comments on those technical standards. I appreciate the opportunity once again to clarify that position for this committee.

**Mr Michael Brown:** Mr Chair, just to clarify Mr Klees's comments, I presume what he's just told this committee is that the bill will not go to third reading



before the committee has had the opportunity to examine those technical regulations.

**Mr Klees:** Can I clarify Mr Brown's position on that, Mr Chair? Mr Brown did not understand that correctly.

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#### HELEN PURDY

**The Chair:** On that note, we will welcome Miss Helen Purdy. We appreciate your being here this afternoon.

**Miss Helen Purdy:** First of all, I'd just like to speak to the issue of what I feel is the prematurity of these public hearings on Bill 52. I obtained a copy of the bill in August from my member of Parliament. I called Toronto, the communications branch, after I read the bill because something was missing, and that was the regulations. I found out they hadn't been written yet and I hear today they haven't been written yet as well.

It is impossible for the public to adequately review a proposed bill when various matters related to applications and industry standards currently dealt with in the Aggregate Resources Act are to be moved into the regulations. The act and regulations must be read together.

Notification to the public — a one-night publication and seven working days to submit your name for oral presentations — has not been sufficient. I received a call two days ago to come here this afternoon and here I am, but not without considerable stress in my life and not as fully prepared as I wanted to be. I have a lot of things jotted down, but I have a lot of materials because I've been working on the Aggregate Resources Act for five years.

I'm a past resident of the township of Puslinch, having lived there over 20 years. I was raised on a farm in that area. I hate to see the farm land being dug up and turned into pits. I presently work in the township and also participate in three community organizations as a volunteer. In recent years, Puslinch township is perhaps best known for the infamous OMB hearing which began in 1989 and lasted 16 months. Six different aggregate operators, supported by the Aggregate Producers' Association of Ontario, the Ministry of Natural Resources and the Ministry of Transportation, defeated the township and the residents who participated. Unfortunately, I didn't participate at that time.

There has been a study put out by the University of Waterloo, entitled the Environmental Assessment and Planning Project, Case Report Number 3, The Puslinch Case. It was published in 1995; interesting reading. The township loss has since influenced other municipal governments to approve official plan amendments and licence applications for extraction. The MNR and the gravel industry are said to be too powerful to fight and municipal councils do not want to go to OMB hearings only to lose as Puslinch township did in 1989-90. Puslinch township has never gone back to an OMB hearing for a gravel extraction proposal since 1990.

I have pursued specific matters related to the licensing and operation of gravel pits through the past five years. Prior to that time, I had no interest in the extractive industry. However, when a gravel operator came knocking on my brother's door in April 1991 and asked him to come out to the road and look at his sketches for the

widening and reconstruction of the county road in front of his home and property, I became actively involved. I believe in finding out the facts first before responding.

I am speaking to you today in the interest of my family and the public. I have a great deal of sympathy with the first speaker today. I realize what he was speaking about, and I've never met the man before. I do not believe that the politicians and the ministry bureaucrats who drafted this legislation have considered the public interest beyond economics. The bill is permeated with references to the establishment and provisions of the aggregate resources trust; section 6.1, as an example. The government coffers will be overflowing with permit fees, royalties, sales tax revenues. In the Kitchener-Waterloo Record this week, a pit applicant is quoted as saying the gravel on his property is worth \$30 million. It sounds like the provincial government and the local municipality stand to gain substantially from the licensing of this pit.

It's quite interesting what's been happening in recent months at the township of Puslinch, because we have an agreement of understanding. I note that in this one:

"In lieu of the reconstruction of McLean Road, the company agrees to supply crush and apply 90,000 tonnes of aggregate material — approximately 75,000 tonnes grade A and 15,000 tonnes grade B. This aggregate material will be removed from the above property and applied to township roads in Puslinch within three years of the issuance of the class A pit licence for the subject property. The company agrees to reimburse the township for any amounts owing with regard to the rehabilitation deposit filed with the Ministry of Natural Resources with respect to the wayside pit permit."

I won't go on. A proposal is before the township council right now. This was a special council meeting and I read from the minutes:

"A development agreement to include issues such as hours of operation, contribution to the township's road program etc. The proponents ask what was meant by contribution to the road program. Council members advised that this would require, for example, the provision of aggregate for township roads."

I believe I am sufficiently knowledgeable to speak on several issues regarding the licensing and operation of gravel pits. I can speak on air quality. I can speak on public participation and consultation. I'm quite knowledgeable about noise and I'm learning a lot about water resources. I've chosen to discuss transportation today and related health and safety matters because I feel very strongly that the lives of children and the public have been endangered in the township of Puslinch due to the aggregate spread in the past five years.

From my inquiries and research to date, I have come to the conclusion that the transportation of gravel is given low priority in the licensing process and in the actual operation of a pit. In my reading of Bill 52, I see no evidence that would indicate the transportation matters have been addressed. This is a travesty. This week's news coverage of one negligent trucking company, Toronto's largest mover of gravel, with 150 employees and 500 safety citations in the past five years ranging from collisions to speeding and operating overweight, is bringing the transportation of gravel to the forefront. There we have it, right on the front page. I believe that



along with Mr Palladini we should have the Minister of Natural Resources out on the inspection lines as well because there are just as many gravel trucks being pulled over.

The Minister of Natural Resources recently refused a request for an OMB hearing into a pit expansion. He ignored serious and specific concerns, such as traffic safety, brought to his attention and determined that to alleviate impacts caused by vehicular traffic entering and exiting the pit a tonnage condition had been imposed on the new licence, reflecting a decrease of approximately 60,000 tonnes or approximately 17% less than what was allowed under the original licence.

I don't for one minute believe that a reduction in the yearly tonnage removed from the site will lessen the danger that the location design and use of the haul road and pit entrance/exit represents to my family or the public. You see, the pit haul road and entrance/exit were established in a school bus loading zone in 1991. Two school buses stop at the pit entrance/exit twice daily. They did so this morning. My 15-year-old nephew boards and departs the high school bus, and my 10-year-old niece boards and departs her school bus. Other children are passengers on these buses. This situation is absolutely horrendous and completely unacceptable. My family was forced to transport the children to school for two and a half years when the pit first opened, due to heavy traffic at that location. The house is within 150 feet of the gravel entrance. This should not have happened. It would not have happened if there had been proper planning.

I have a copy of the transportation report that was prepared for the OMB hearing — eight pages — and I also have some other traffic reports. This was prepared for another pit at the same hearing. This is a transportation report prepared for the landfill site in Wellington county. This is a transportation report prepared for a pit in Paris. All of these have reference to traffic safety. They have a traffic safety component, which includes school busing. This one has nothing other than the amount of traffic on the road and consideration for the wear and tear of the road.

The convergence of a pit haul road and a county road is nothing more than a busy and congested intersection with a high percentage of truck movements each hour and particularly during the hours when school buses are travelling the county road. You must remember that one truck represents two movements — in and out — at a gravel truck entrance. In July 1992, I decided to count trucks associated with the pit to get some idea of the number of truck movements. In a five-hour period, from 10:30 am to 3 pm, there were 45 truck movements per hour. This represents one truck movement every 1.8 minutes over the five-hour period. I don't believe the Minister of Natural Resources is at all concerned about minutes and hours and number of trucks daily. He's interested in the tonnage figures. As for the operator's consultant, a landscape architect who is not qualified to speak on traffic issues, had only this to say when the concerns were raised about the day's events.

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The second concern is with the stacking of vehicles at 11:45 around the entrance. There was a terrible noise that

morning. In fact, it shocked me and I grabbed my camera and I'm glad I did. You can see the results. It seems reasonable that on one of the heaviest shipping days some congestion might occur at the entrance and we are frankly impressed that there was only one notable event during such type scrutiny. The near collision of three gravel trucks at the pit entrance/exit should be taken seriously. The implication here is that the operator would ordinarily expect several such events to occur in a five-hour period. I put to this hearing that gravel operators, their consultants, the ministry and the Minister of Natural Resources and truck drivers have to show more respect and responsibility for the safety of the public and human life in regard to the transportation of gravel.

There has been a school bus accident with a gravel truck in Puslinch. It seems it wasn't treated as a priority. This is taken from the minutes of a meeting held in 1986: The reeve informed council that on February 3, 1986, at approximately 8 o'clock, a truck driver for a local company was driving a gravel truck east on Concession 5 and did not stop at the stop sign at the intersection of Concession 5 and County Road 35. At the same time, a school bus was travelling north on County Road 35 and making a left turn to go west on Concession 5. Because the driver did not stop at the stop sign, the school bus was required to quickly brake, resulting in four children being thrown from their seats. The truck hit the bus and scraped paint off the bus. It was quite fortunate that no injuries were suffered as a result of this incident. Council instructed the clerk to send a letter to the owner of the gravel pit outlining the above incident and requesting him to take appropriate disciplinary action with the driver which would discourage any similar recurrence.

I can attest to the fact that we have some very careless drivers in Puslinch township and it's particularly at this entrance/exit that should not be there.

I have some scribbling here. First of all, when I went to look at the bill I found it very difficult to read, so I cut it apart and did some paste-ups. What I did was take out the deletions, put them on this side, put in the new parts that were added. I have gone through and I have specifically written different questions throughout.

One of the areas I'm particularly concerned about is section 11, number 5. It says, "During the prescribed consultation procedures, the applicant shall attempt to resolve the objections." That would be the objections of a complainant. When you object, no one listens. That's what I've found out. First of all, when the gravel company comes knocking at your door, you have no idea — you don't have any background in gravel. You don't know what you're to do. My brother went out and put No Trespassing signs up that night because they were going to come the next day and start construction on the exit. We felt we could keep people off his property because they planned to build a four-lane bulge in the road. That would mean, for 600 feet, there would be four lanes: one, a left-hand turning lane; a passing lane. The problem with the passing lane is that all traffic coming along that county road at 80 kilometres-plus would be directed right to where the children stood waiting for their school bus. That is dangerous.

My father, who at the time had just retired from the Ministry of Transportation and Communications, was



down there on the side of the road. He told them that they could not change a road that way. There was some argument. They decided not to build the four lanes mainly because, we found out, they had not passed a bylaw to widen the county road, and that way we would have known what was going to happen ahead of time.

Something else we found out in researching this is that no permit for a commercial entrance exists for that pit, and that is required under the Public Transportation and Highway Improvement Act. So as far as I'm concerned and my family is concerned, that's an illegal entrance and an accident is waiting to happen.

I guess I'm just about out of time, but I could go on for quite some time here.

Hoping that some changes would be made, I followed the Sewell commission and I did attend a day's meeting, sat in on it. Didn't make an oral presentation but did make a written presentation. Something that was acknowledged in the first draft report: "The commission heard a number of submissions concerning aggregates. Most of them included complaints about present policy and practice." Now, I understand that the ministry often treats complaints from the public as being of a NIMBY nature. In our case I don't believe it's "not in my backyard;" it's in our front yard.

"Three major concerns require mention here." This is going on but I think it's important. "First, policies for aggregate resources conflict with other policies such as the protection of wetlands, agricultural land or significant natural features and there seems no ready agreement on how these conflicts might be resolved. Second, there are many complaints about the management of extraction. Municipalities complain that levies collected are very small. Residents complain about trucks, noise and dust." In our case, we have two asthmatics in our family. I have attended the Lung Association seminars on asthma and I've also looked into the air pollution that's caused by diesel motors.

"Third, there are significant problems with wayside pits. These questions on aggregates lie beyond the commission's mandate with the exception of some of the policy questions that the commission has addressed as noted. But the anger in the community is palpable and the commission recommends that the Ministry of Natural Resources form a task force which includes municipal and citizen representation to review these concerns and report before December 1, 1994." Now, this did not happen. When the —

**The Chair:** You're down to your last 10 seconds, so we're going to have to stop.

**Miss Purdy:** So when we had the new planning report, it was dropped. I'll have to stop there. I could go on but there are a lot of issues here.

**The Chair:** Thank you very much for coming forward. We appreciate your input.

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#### TOWN OF CALEDON

**The Chair:** Our next presenter is Mayor Carol Seglins from the town of Caledon. Good afternoon. Welcome to our committee. The floor is yours.

**Ms Carol Seglins:** Thank you very much. I appreciate having this opportunity. I will express my concern that I don't have a written handout at this point but I will certainly supply it later. I was only slotted into the one time frame that became available when someone else couldn't show up.

I am presenting on behalf of the municipality, but I do not have the planning background so my presentation to you may be a little less detailed than some of the others you've heard to date. I want to say that I have been a member of the committee, the Aggregate Resource Working Group, which was the provincial initiative to look at long-term strategy, and I certainly have given a commitment to trying to find less confrontational ways of aggregate extraction, because the past 30 years in Caledon have been — it's very expensive both for the municipality and the producers. We'll certainly do our best to have something that is more reasonable for everyone.

I want to say that Caledon has supplied aggregate for many years and I guess there have been other suppliers that have already spoken with you about the extent. I think much of the aggregate for Queen's Park actually came out of Caledon, so we've been a producer for a long time and we feel there has to be a change in the way aggregates are extracted, the cost to the community. We've appreciated being part of the provincial initiative that has looked at it.

The province in its public planning statements has really said that it's looking for an ecosystem approach and recognition of the aggregate needs as well as the natural environment needs and community needs. So I think that the ecosystem approach is the way that we'd like to see planning in the future, and that's why we've participated in this overall process.

We agree that there are some conclusions in Bill 52 that are good ones, and we'd like to commend the committee for some of those that seem to result from some of the work that we've done on the Aggregate Resource Working Group, which has been meeting as a working group of stakeholders since June 1995.

However, we do have some concerns, and one of the concerns is the very little opportunity for public input and little review from stakeholders. As a working group that has been working on this since June 1992, we were stunned to find that the bill was presented to us as a fait accompli on our desks at a meeting, with no opportunity for any input. So not only have we not had public input, but not from stakeholders either.

I agree with the government position that we need to cut red tape, reduce costs and improve the availability of supply, but I'm not sure that the regulations or the legislation in Bill 52 will actually accomplish that. So I would like to offer some constructive points for consideration and possible inclusion in the bill.

The first issue, that the OMB decision is final: We agree with that. We agree that in fact it is the OMB which will have heard all of the concerns raised, therefore we agree with the fact that the OMB decision will be the final say. However, the minister has been given the opportunity to set conditions. We feel this is not appropriate, because the minister will not have been there



throughout the process. If in fact the ministry is going to be there and be a friend to the board and explain what the ministry can or cannot do, that's one thing, but not to come in after all of the concerns have been heard and then take away that decision and disregard conditions that have been agreed to by all parties during the hearing.

The third one relates to the aggregate resource trust. There are benefits to this. The administration of the abandoned pits and quarries trust right now is just accumulating. We find in our community that there are places where there could be implementation; there is not now, so perhaps this trust could be implemented in that place. They could also hold pooled funds for doing rehabilitation where aggregate pits and licences have been revoked. They're also suggesting that there will be funds there for research, and we certainly support that.

However, some of our concerns with that trust are the accountability of the trust, the determination of the fees and how much research and who's going to determine those things. We keep hearing that this is just the legislation, the regulations and standards are to come. But without that knowledge, it's very hard to know whether in fact there will be an accountability trace.

The lack of details on the roles and responsibilities, the composition, how it will remain publicly accountable: Is it going to be through the present MNR provincial representatives? If they are private trustees or members of the APAO, how do we balance the social responsibility that the province has with the bottom-line approach that the APAO uses? I think there's more information needed on that, and I think it should be shown in the bill.

The fourth issue is information requirements. There's insufficient information here to know whether we really will have the information that's required up front. It my feeling that in fact we should at least have a minimum standard in the legislation.

The fifth point is distribution of the licence fees. These rates were set in 1980. I know that we've had a great deal of discussion in our working group about whether they're appropriate, whether they recognize the cost to the industry, to the municipality. I would encourage the opportunity to have further discussion with stakeholders about the licensing fees and whether they are appropriate.

The sixth issue is industry self-monitoring. Both the annual inspections and the annual compliance reports will be helpful tools. We agree that both of those are a good step forward. However, we feel that as it's in the legislation, we speak of the annual inspection report only being available upon request and for an appropriate fee. We feel they should be available to the host community automatically. We must know in municipalities what is going on on major land uses within our community. In our community we have 64,000 acres that the air mapping has shown to be aggregate supply of one dimension or another. Surely a municipality can be told about what is going on in the ongoing operations.

Public confidence will be eroded if the ministry is not the front-line partner, and we do need a mechanism that will assure the public of compliance. There's no access for the public on private lands that belong to the industry, and also the legislation doesn't indicate any deadlines for corrective action. So we need a mechanism to resolve those specific concerns.

We feel that as it is at present, it would be a very confrontational situation and costly, with lawsuits. Is it the municipality or private citizens? Do they have to, then, sue the private operators? That again defeats the things that the province is suggesting: that they are trying to streamline the process, cut the red tape, reduce costs and give consistency. We don't feel that particular issue has been resolved.

The compliance relationship is a good initiative. The establishment of a compliance relationship is a very interesting approach. We just feel there's not enough public access to the information, so if we can work out ways that could be more publicly available. The credibility of the self-monitoring depends on the honesty, integrity and full commitment of the APAO. There must be very serious consequences for non-compliance; we don't see these in the legislation. There should be at least minimums set there.

The suspension of the six-month limitation is a good one. Suspension should remain in place until the concern has been dealt with.

Number nine is wayside pits. This responsibility has been delegated to the MTO. One of our points on this is perhaps it's a missed opportunity for the use of wayside pits and the reduction in all of the process that regular licensing takes to do several things; one of them is the extraction of specialty products. There may be areas where there can be reduced process in those: if it's a very small operation and you get in and out within a year. By delegating it to the MTO, we miss that opportunity and also the opportunity for some urban rescue in areas that are adjacent to areas that you will see developing with either industry or housing. Those areas might again have a special process and not have to have the usual licensing process. So I think that could be a missed opportunity that possibly the province could look at.

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Number 10 was licensing, no expiry date. We've always heard at all of our discussions that extraction is an interim use. If there's no expiry date on the licence, how do you call that an interim use? We need a mechanism for review so that overall planning in communities can be done. We need policies which give certainty to both the producers and the other land users in the area. MMAH insists on 30-year OPs for all other planning issues, so why is this being treated any differently, for a licence to not have any expiry date whatsoever?

The 11th issue is no development permit for changes. This is just totally unacceptable. Standards change, and we need to be able to recognize different needs that have transpired and changes in policy as time goes on. We need those planning tools.

There are some outstanding issues that aren't addressed in the bill. I will just mention them quickly. I think they can be included in Bill 52, and we would look forward to having some opportunity for that. One of them is groundwater. The issue of water taking and discharge permits could be dealt with in this bill. The movement of fill and peat: We would encourage the province to include enabling legislation to recognize both the use and movement of fill and the extraction of peat.



Another one is the day-to-day operations. If there are only going to be a very few MNR inspectors, who's going to respond to the daily concerns and issues? Are the people in the community supposed to phone up the operator and ask about this, phone up the municipality? The municipality doesn't have any opportunity or any right to interfere in that day-to-day operation. We need a mechanism there.

The role of the MNR is very unclear in this bill. I think they've stepped back from the process. I understand and see that they're developing policy here, but they're not taking responsibility for how it works. So there is an accountability problem. We'd like to know how we can work together to actually address that.

My conclusion: Who is responsible for the social values, the overall best interests of the people of the province? Can we ensure that our environment can be sustained if the corporate bottom line is the measure of decision-making? I think there is an overall responsibility of the province. You've taken the initiative to cut cost and red tape. This may happen for the ministry, all right, but it's certainly not going to happen for the industry and the municipalities that are involved in aggregate extraction. There appears to be a reduction in public accountability to ensure that there is licence compliance and upfront information to rely on. Also, it does not recognize the true costs to municipalities. We would like to see that dealt with.

The province is focusing on strategic planning. Stakeholder groups would like to be included in the policy and program development and standards, which must recognize ecological sustainability. It requires analysis and perspective from all the facets. You can do that with a round table of stakeholders; you can't do that when you only consult with the APAO and the producers. You have a working group in place already. We'd urge you to use that group and at least give us an opportunity to bring those perspectives: mineral economics, planning, environmental science, hydrogeology, community interests, knowledge of industry operations and enforcement.

The costs of extraction will increase for producers as responsibilities are transferred to the proponents. This will protect the larger existing companies and force smaller and new companies out of the market. This, in the end, will increase the costs for everyone.

Those are my comments that I have assembled to this point. I'd like an opportunity to be able to submit them in a little bit more articulate form. I will certainly supply that if given that opportunity, and I am interested in answering any of your questions.

**The Chair:** Your written brief is certainly very welcome. We're down to just about a minute per caucus, beginning with Ms Martel.

**Ms Martel:** I don't think I'll ask a question; I'll make some comments. We've been trying to hammer home to the parliamentary assistant why we've been so disturbed by this process in terms of who's been notified, who's been involved, but more important, that we're dealing with an act that just doesn't have all the information, so we're not in a good position as members to make any kinds of decisions. It's nice to know I'm not the only one making that case and that there are people who have very

legitimate concerns, who are in the know, who are also terribly concerned about the process that's before us.

Another point I should make, you talked about notification and as a municipality how important it was to you. There are two other sections in the act that I have come up with where notification is not going to exist either. In terms of a transfer of licence, for example, the minister now, under the new act, notifies the municipality after the transfer has taken place.

Second, in terms of site plan amendments, before, in the old act, it looks like it was mandatory for a municipality to be advised that there would be a site plan amendment. Now the minister can advise that municipality at his or her discretion.

**Ms Seglins:** Actually, I would say they were only allowed to be notified, not to actually give input to the changes that were going to happen, even in the old legislation. So that does have to be addressed.

**Mr Tilson:** I can just say very briefly, your worship, thank you for coming. I would also like to thank the members of the committee for allowing the mayor to appear on such short notice and her for preparing her comments on such short notice. As you know, Caledon, like the township of Puslinch, is well known, unfortunately, for dumps and aggregates. Particularly in the last couple of years, we've had dumps, and now we've got aggregates that are creeping up as an issue.

I can only say that anyone who lives in Caledon or has been in politics in Caledon, unfortunately becomes an expert on the issue of aggregates, as you can see by the presentation of the mayor today. I can only thank you for your excellent presentation. I think the members of the committee would appreciate a written copy, although Hansard will record what you have said. Certainly the parliamentary assistant, Mr Klees, is here today, and I know he has made copious notes on what you have said and will be taking all of your comments back to the minister.

**Mr Sergio:** Mayor Seglins, thank you very much for your comments as well. There's no time for questioning, just to let you know that you are not the first one to express concern with a number of things within the proposed bill. We don't have any regulations either; we don't have any guidelines either. There is nothing in this particular proposed bill that would guide you out there, the industry and the people, including ourselves. So we are in a quandary, really, about what the government is going to propose later on. I would hope that you again and all the people will have an opportunity to review and have some further input when the legislation will be proposed.

I think you should know that we have some people who, while they have expressed concern, would like to have control of the industry. They would like to have their own self-regulation. But at the same time, Mr Trevail said that they don't have the people who could supervise and regulate their own industry. If they don't have that but they would like to have a deregulated industry, how are we going to protect both the environment and the industry?

**The Chair:** Thank you, Mayor Seglins. We do appreciate your attendance here today.



**Ms Seglins:** Could I just add that the minister did assure us that we would have the opportunity as stakeholders to participate in that review. We'd like that extended even to the development of those regulations and standards, if possible.

#### SKELTON BRUMWELL AND ASSOCIATES INC

**The Chair:** Our next presenter is Anne Guiot, representing Skelton Brumwell and Associates Inc. Good afternoon. Welcome to our committee. The floor is yours.

**Ms Anne Guiot:** Thank you very much. Good afternoon. My name is Anne Guiot, and I am an aggregate resource planner with Skelton Brumwell and Associates, a consulting engineering planning firm located in Barrie, Ontario. The following comments and perspective are those of both myself and the firm. As with any professional assignment, I have reviewed Bill 52 considering the intent of all the stakeholders, the stakeholders being the public, the natural environment and the aggregate industry.

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I have worked in the field of aggregate resource management for the past 12 years, the first five with the Ministry of Natural Resources in the aggregate resources section and the past seven years in private consulting with Skelton Brumwell and Associates. My various roles with the Ministry of Natural Resources include pit and quarry inspector, mineral resources administrator and Aggregate Resources Act implementation coordinator. The last work involved summarizing the standing committee's review of Bill 170, now the ARA, and assisting in the preparation of policies, information packages and publications pertaining to the Aggregate Resources Act.

More recently in the consulting field, my job has involved project coordination for licence applications, Planning Act applications, government and public liaison, presentations at public meetings and the OMB, and general services to both aggregate producers proposing development and ratepayers opposing aggregate applications.

I am currently a provisional member of the Canadian Institute of Planners and the Ontario Professional Planning Institute. I am also on the board of directors of the Ontario chapter of the Canadian Land Reclamation Association and a committee member on the Aggregate Producers' Association of Ontario's community relations and rehabilitation committee and the MNR's streamlining committee.

I appreciate the opportunity to speak to you today and hope my perspective and comments are of value.

The stated purpose of Bill 52 is "to promote resource development, conservation and environmental protection through the streamlining of regulatory processes and the enhancement of compliance measures in the Aggregate and Petroleum Industries." I have tried to keep this goal as a framework to determine the potential benefits and pitfalls of new concepts presented in Bill 52. If we can all agree at the end of the day that these goals have been met, then I believe we will have made an improvement over the current process.

My comments will focus on the general concepts that have been introduced, changed or eliminated by Bill 52,

what is a move in the appropriate direction and what gives me some concern. These concepts are: (1) the aggregate resource trust, (2) licence application requirements, (3) a proponent-driven application process, (4) the notifications-consultation process, (5) scoping, (6) OMB decisions versus recommendations, (7) self-monitoring, (8) the four-year municipal review and (9) collection of rehabilitation security.

If you are following along here with what I've written, I'm going to be hitting the highlights to allow some time for question period.

(1) Aggregate resource trust: Bill 52 proposes that MNR no longer be bankers and that all financial transactions be handled by the trust as opposed to aggregate resource officers. Fundamentally, I agree with this shift. However, I do have concerns. In order for the trust to operate successfully, it must be both credible and accountable as perceived by all stakeholders, including the government.

Recommendation: That the trust be created such that its corporate and operational structure is not inordinately controlled by any of the stakeholders.

(2) Licence application requirements: Currently requirements for information to be included on site plans and within the section 9 report are detailed by legislation. MNR staff has expanded upon these requirements with additional details provided in policy and procedure.

There are a number of resulting problems. First of all, there is a very big difference between what is legislatively required and what is nice to know. Second, there is a wide range of interpretation of the guidelines between aggregate resource officers. Finally, if the aggregate resource officer is not diligent in following guidelines, and the site plan or report author is not equally diligent in following guidelines, then the result is a site plan or report not up to standard, which does not serve the best interests of any of the stakeholders.

Bill 52 proposes to prescribe the application requirements in the regulations. It is my understanding that these regulations will provide more detail than is currently contained in the ARA, but less detail than provided for in MNR policy. This I believe will be a big improvement. It will let all stakeholders know specific required information up front and hopefully improve consistency between districts. Perhaps most important, however, it will identify what is required information in the regulations and not allow it to get lost in MNR policy. Without the regulations drafted at this time, it does, however, leave a void of information when one is reviewing Bill 52 and trying to comment.

Therefore, I've recommended that the regulations in draft form are reviewed by a limited group representing all stakeholders.

(3) Proponent-driven applications: The ARA provides for licence applications to be processed by aggregate resource officers. They are in control of circulation, liaison with agencies and the public, and timing in general.

It has been my observation that two problems have arisen as a result of this. First, the applicant has virtually no control of the timing of processing the application. Second, I often hear that MNR is pro aggregates and does not adequately represent the interests of the public.



Bill 52 proposes that the application process be proponent-driven. This is real progress. Not only does it put control and responsibility in the hands of the proponent, but it provides for a more neutral role for the MNR. Furthermore, the proponent will now be able to control timing of applications so that they may dovetail with other planning applications.

Recommendations: (1) That the regulations set out a clear course of action for proponents, agencies and the public detailing roles and responsibilities; (2) that each stage of the process include limited but realistic time frames; and (3) that failure to meet responsibilities within the stipulated time frame, as noted in recommendations 1 and 2, represents a no-concerns response.

(4) Mandatory consultation: Bill 52 introduces a requirement for consultation during the notification and circulation period. Fundamentally I believe it is appropriate for a proponent to consult with concerned area residents about a proposed application. In some cases a consultative process will be effective in reducing or eliminating concerns, and in some cases it will not. The real merit in this requirement is the opportunity to make an objector as responsible for his objection as an applicant is for his application.

Therefore the recommendation: That the regulations should require documentation by both objector and proponent outlining outstanding concerns, attempts to resolve concerns and possible solutions to concerns.

(5) Scoping: Bill 52 introduces the ability for the MNR to direct that the board shall determine only the issues specified in the referral — in effect, scoping.

I believe the concept of scoping is a good one. However, as many of the applications we handle are submitted concurrently with Planning Act applications, there are potential problems. There is no similar provision in the Planning Act for scoping. Therefore, in all likelihood, all issues may be before the board through Planning Act referrals. If scoping does not work, we are left with the status quo, that is, the right for a full hearing on all issues. Therefore, under the appropriate circumstances, is scoping not worth a try?

Recommendation: Again, that the responsibilities of an objector be spelled out in the regulations as recommended in point 4.

(6) Ability for the OMB to make a decision versus a recommendation: Under the ARA the OMB has the ability to make recommendations to the MNR regarding a licence application. Bill 52 provides for the OMB to make a decision on the issuance of a licence with prescribed conditions and a recommendation on additional conditions. Although there is merit in increasing consistency with the Planning Act where the board does make the final decision, I don't believe Bill 52 improves the current situation, and would in fact increase problems.

The first problem arises where the board may not want to accept scoping if they are to make a decision on an application. If they were to make a recommendation only, they could qualify what their recommendation is based upon, and the final decision would rest with the MNR, who originally scoped the project.

The second problem deals with the need for MNR to be able to determine appropriate licence and site plan conditions that are enforceable. The MNR should be

making every attempt to satisfy the conditions as identified by the board. However, I believe they need the final say to ensure it is within their mandate.

Recommendation: That Bill 52 be revised so that the OMB make recommendations to the MNR.

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(7) Self-monitoring: Self-monitoring is here for APAO members. Currently a partnership agreement between APAO and MNR governs self-monitoring. Bill 52 legislates self-monitoring for all licensees. This is a positive step in that it levels the playing field for all designated area operators.

My concern with self-monitoring deals with MNR's changing role from being compliance oriented to enforcement oriented. In order to be successful, MNR must be diligent in enforcement.

Recommendations: (1) That there be enough MNR staff to be able to audit the self-regulation program to ensure program success; (2) that MNR staff be well trained and diligent in enforcement.

(8) Municipal review: Currently the ARA requires that every four years local and upper-tier municipalities have the opportunity to comment on the operator's compliance. Presumably this clause was included within the ARA to provide the municipality with some continuing measure of involvement. Bill 52 does not provide for this.

I do not believe this should be restricted to every four years. I also do not believe it needs to be written into legislation. If the municipality or anyone else has concerns or questions regarding the compliance of operation of a pit, they should have the ability to approach the MNR at any time.

Recommendation: That Bill 52 or the regulations provide clarity that MNR will continue to respond to complaints.

(9) Rehabilitation security deposit: Bill 52 provides the opportunity to do away with the traditional incentive for rehabilitation, that is, money. Instead the focus is on compliance on the part of the operator and enforcement on the part of MNR to ensure that rehabilitation is completed as required by the site plans. It is difficult to predict whether this will be enough to ensure quality rehabilitation. Again I believe the success of the change will be dependent on adequate enforcement.

I am pleased to see there have been safeguards built into Bill 52 to either build up the superfund as it is depleted or to fall back to a collection system.

The proposed new system also addresses the problem of rehabilitating sites where the licensee has defaulted on a licence and does not have enough money in account to rehabilitate even to a minimum standards.

Finally, the eight cents per tonne has not been linked to actual rehabilitation costs, and I fully support the shift in focus from the cost of the work to the quality of the work.

Recommendation: That there be some kind of monitoring of this new approach to evaluate its success and implement change if necessary.

In conclusion, I would like again to consider the purpose of Bill 52. Does Bill 52 promote resource development, conservation and environmental protection through the streamlining of regulatory processes and the enhancement of compliance measures? Yes. If applicants



are told of application requirements up front and are able to control the timing of the application process, I believe it will go a long way to reducing time and risk for licensing pits and quarries. If a potential site does not measure up to the standards or the necessary background research identifies unresolvable environmental concerns, a licence should not be pursued.

Ensuring compliance of an operation should be the responsibility of the operator. Some operators will do the job very well; others will abuse it. What needs to be ensured is MNR's enforcement of all abuse cases. If there is a weakness in meeting the goal of Bill 52, I would suggest it is the enhancement of compliance measures. The bill must be clear in MNR's new enforcement role.

In January 1990 we saw proclamation of the Aggregate Resources Act. We've had six years to work with this act and understand what its strengths and weaknesses are. We have an opportunity with the current provincial government to make positive change to the legislation to ensure program success while government downsizing occurs. It is essential, for Bill 52 to be an improvement over the ARA, that input be received from all stakeholders. I believe your attention today goes a long way towards achieving that goal and wish you every success.

Thank you for the opportunity to present my perspective. I'd be happy to answer any questions.

**Mr Klees:** Thank you very much for your input today. Your experience in the industry comes through clearly. We look forward to continuing to get some input from you as we develop those regulations.

You've made a number of points that I think are on the mark and I think we're certainly on side with you. Your comment with regard to the fact that the trust should be created such that there is not an inordinate control of any stakeholder: I assure you that we agree with you on that and we're working now to ensure that this structure represents the broadest sector and is not in any way skewed.

There was a point made earlier and I just want to take this opportunity to clarify for the record about the accountability of that trust, because it's a key issue. The act makes very clear reference in subsection 6.1(7) that "The trust shall report annually to the minister on the financial affairs of the trust." Then in subsection (8), "The minister shall submit the report to the Lieutenant Governor in Council and shall table the report in the Legislative Assembly." So the ultimate accountability of that trust is clearly to the Legislative Assembly of this province. I wanted to make that point very clear so that people understand that this is not something we're setting up and expecting it simply to function out there in orbit somewhere.

**Mr Michael Brown:** I think this is an extraordinary brief. It's very helpful to us. I was interested in your comments on self-monitoring. You've put this more clearly, at least in my mind, than I've seen it put before, and I appreciate that. Now we've moved from the government being a partner in aggregate extraction to being the regulator or the enforcer, and I think that's probably a fair way to characterize what's going on here.

I just wonder if you can help me with this. I agree with you that for this to work, enforcement is critical. I'm a little concerned at this point that the penalties that will

be available under this act will not necessarily be appropriate to the violation of the act. In other words, you can't have an overreaction or an underreaction to compliance measures. Sometimes they're big, sometimes they're small, but you must respond to every one of them, and if suspension ends up being your tool, that may be too great for some things and not great enough for others. I just wonder about your views on that and how MNR itself would decide what the appropriate penalty might be in the situation.

**Ms Guiot:** I can't comment on how to establish the penalties really, but I think what will be important is that they are strictly adhered to. I know years ago when I was with the MNR, the goal was to bring the operator along in compliance. If it meant working with him over several months to get his fence up and eventually he got the fence up, then that's what you would do. It appears to me we are now in a situation where if the fence is not up, you will be penalized. There's not going to be a four-month period to work together.

**Ms Martel:** Thank you for your presentation today. I wanted to make one comment and then I wanted to ask you a question about the trust fund and how it's established.

The comment I wanted to make had to do with the recommendation around point 7, self-monitoring, and that is that there be enough MNR staff to be able to audit the self-regulation program to ensure program success. One of the points we've been raising during the course of these public hearings is our concern that there will not be enough MNR staff left on the ground not only to make sure the program works but to deal with the bad operators. That will be I think a problem for the government in the long run. It will be a problem for operators in the long run if the industry is given a bad name because of one or two or three people who really want to break the rules and flout them all the time. I agree with you around your concern in that respect.

I wanted to ask you about the trust fund, because you said in your recommendation that it should be created in such a way that the corporate and operational structure is not inordinately controlled by the stakeholders. Can you give the committee some sense of what would make you comfortable in terms of how it's established, how it's administered and how it deals with applications that will no doubt come in from people who have money to rehabilitate but from a number of areas where there are abandoned pits and quarries that have to be dealt with?

**Ms Guiot:** I'd like to see at some point in the system a committee that represents all stakeholders so that there could be an ability for anyone to stay informed of what the trust does, if it's just an interest perspective, and to be involved in bringing issues to the table that the trust might be dealing with such as research on rehabilitation, for instance.

**The Chair:** Thank you, Ms Guiot. We do appreciate your interest and your presentation this afternoon.

#### CONSERVATION COUNCIL OF ONTARIO

**The Chair:** Our next presenter is Glenn Harrington, representing the Conservation Council of Ontario. Good



afternoon, sir. Welcome to our committee. The floor is yours.

**Mr Glenn Harrington:** Thank you very much for giving us the opportunity to comment today. It's late and I will be brief and I won't belabour points that have already been made.

The first point in our presentation is one that you've heard many times, and that is that we find it impossible to review this legislation without seeing the regulations, without seeing details on how the trust is going to be set up and without some understanding of any new functions that the Aggregate Producers' Association is going to have. We think those are key to how we evaluate this legislation. But I'm not going to beat that dead horse, I'm simply going to ask that there be broad consultation on those things. We have been promised that will come to the Aggregate Resource Working Group and we're willing to review those things there.

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There are four points that we would like to suggest be considered in the review of this act, and I think probably you will have heard most of these as well before.

Number one is we can see no reason now why the entire province should not be designated. For 25 years the Conservation Council and the industry have been asking for designation of the entire province, and the reason we have been given consistently is that it costs too much to administer licences in areas where they are very few and far between. As we pass that expense on to the proponent, I see no rationale any longer to have areas of this province that are not designated. This is particularly important in the north and in the eastern parts of this province where very often you have two operations side by side that are operating under completely different rules and completely different financial conditions. It's not good environmentally, it's not good socially and it's not good for the business concerns of the operators.

The second is also a long-term position of the Conservation Council, and that is that wayside pits should be eliminated. We find that they're very often a shortcut to getting a licence, very often a way of avoiding complex reviews and regulations and quite often create problems. If they are to be left in — and our strong recommendation is that they should just be removed — we want to make it clear that we want the regulation of those to stay with the Ministry of Natural Resources.

The Ministry of Transportation describes itself consistently in the public as developers. They are proponents of many wayside pits and there have been many problems with the management of MTO wayside pits as well as other wayside pits. We see it akin to putting the fox in the chicken house to have them review the wayside pits that they are managing on their own.

The third is that there needs to be some rationalization between the Mining Act and the Aggregate Resources Act, and specifically how things like advanced exploration permits, which currently are being operated to produce building materials, get grandfathered into the Aggregate Resources Act. This has something to do with how you make sure that compensation for municipalities, for example, is consistent in the province, and again, it

has more to do with applications in the north and in the east than it does around Metro.

The last point is that we think peat should be included in the definition of aggregate. It sounds a little funny but it simply means that peat extraction comes under this legislation. We find it incomprehensible that if you owned a piece of property and you went to a hill to dig sand out of that and shipped that to a construction site, you would require an official plan change, a zone change and an Aggregate Resources Act licence. If you went downhill to a wetland and scooped out that wetland and took it and sold it for peat, you would have no requirements for any of this. On the one operation there would be provisions for environmental monitoring and impact assessment, there would be compensation to municipalities, and on the other there would be absolutely nothing but a fight.

We look at that and we say the Aggregate Resources Act and the licensing process also provide some assurance to operators that they will be able to operate in the future. The other thing about peat extraction is that that is not the case. They are open to criticism, they are open to challenge, because they have no legitimate way of having their operations approved. So we think it's one of those issues that can benefit both industry and the environment. I'm happy to answer questions.

**The Chair:** Thank you, sir. We've got about five minutes per caucus, beginning with Mr Brown.

**Mr Michael Brown:** Thank you for appearing today. "The entire province should be designated," is always very interesting to a rural northern MPP. In our area we obviously have large quarries and extractive areas. Can you help me again with explaining how, under the new regime, some of the problems that kept these areas from being designated before in terms of enforcement, in terms of just driving from Sudbury to Meldrum Bay or to La Cloche Island or wherever, how these areas are going to be enhanced? It's quite difficult, at least it seems to me, in terms of the bureaucracy of the whole thing.

**Mr Harrington:** The bureaucracy, from what I see, has essentially been eliminated from the process. There is not going to be a requirement for an inspector to visit the site. There's going to be a requirement to review the monitoring reports and to periodically poke your nose in to see if everything is okay if you think things are not going well. It's not so much the far-flung licences that are really the problem, it is the licences that are immediately adjacent to one another that really create problems, and there you have two operations working under entirely different sets of rules.

**Mr Michael Brown:** Could you give me a for instance of that?

**Mr Harrington:** Here's the boundary of the municipality of Sudbury. I'm operating here and I'm operating under an aggregate permit. I don't need licensed drawings, I don't need very much at all to do that. I don't pay any money to the municipality, and my trucks go on to that road. Here, I'm in the regional municipality of Sudbury. I have a licence, a zoning application to go through, I've been through all of that public consultation process, and my trucks go on to that same road. I pay the municipality compensation because I'm deemed to have



an impact on that municipality. I don't over here. So the rules are entirely different for both of those.

The reason has always been given that there are these far-flung licences and that they're impossible to get to, but that's no longer something we need to be concerned with. The applications are going to be paid for by the proponent, the process they go through to license is going to be financed by the proponent and the aggregate inspectors are going to be responsible for simply monitoring the reports that come to them and for dealing with problems as they arise. So yes, you might have to, once a year, if there's a problem out there, go out and take some action, but it's only when problems arise, and that's when the aggregate resources officer should be taking action, if there are problems.

**Mr Michael Brown:** It's been suggested to this committee by some people that one of the biggest policing agencies in this system will be the competitor down the block who says, "Gee whiz, X operation up here is not complying and that's giving them an unfair advantage." Through the grapevine, so to speak, that will get back to the ministry and they will check on their compliance, because, under this system, you're always taking their word for it that they have met the criteria. Inspectors will in fact perhaps be tipped by competitors that this would be the case. I'm just wondering in the rural northern situation how that might occur seeing as there's probably no one anywhere near them.

**Mr Harrington:** I think if there's no one anywhere near you and you're not harming anybody and there are no problems, probably you're going to be left alone. It's like submitting your income tax. You're going to have to lie if there are problems, and if you get caught lying, I think you're going to get hammered for it. But I think the problems of the one or two far-flung licences that are around versus the problems it creates around urban areas especially are pretty small compared to the big problems that I see.

The other realistic part about aggregate licences is they don't occur off in the boondocks where there is nothing, because there's no reason to have aggregate there. They occur where there's a demand for it. That might be a mine, that might be a municipality, but there are people around where they occur and I think that's reasonable policing there as well.

**Ms Martel:** Thank you, Mr Harrington, for making the presentation today. How long have you been a member of the Aggregate Resource Working Group?

**Mr Harrington:** Since its inception. Before that, I was a member of the steering committee.

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**Ms Martel:** Are you in the same position as Mayor Seglins was in, in that all of a sudden you saw the bill in the form it was going to be presented and that was the sum total of your participation in it?

**Mr Harrington:** Absolutely, along with everybody else.

**Ms Martel:** Well, not everyone else. That point's been made.

You've got a lot of expertise. You've been doing all of this work for the ministry — as a volunteer, I suspect. Maybe you get a per diem to be part of the working

group, I don't know. You can answer that for us. Now the minister is telling you, "Well, you can be involved in the drafting of the regs," but you weren't around for any of the initial work that's been done. How does that make you feel after all the time you spent trying to give your input and advice and expertise to try and deal with some very controversial issues?

**Mr Harrington:** The aggregate working group's position on that was pretty clear. We essentially halted our activities and said, "We want to hear from the minister to make sure this doesn't happen." We had our chance to yell at the minister and say that we thought what he had done was completely inappropriate after all the work we had all put in for free. So we vented our spleen at that point.

We have not been told we will be involved in the drafting of the regulations, we have been told we are going to be involved in the review of the regulations, and I see that as being very different. I would be very happy to be involved in the drafting of the regulations through that group as opposed to the review of the regulations. But again, we've been told that's the way it's going to be, and I think the group has essentially accepted that.

We're doing some very good things in that group. We think there'll be changes to legislation that are required out of it, but we're not ready yet. There's no point in coming forward with some of our initiatives until we're ready to say, "This is what we think should happen."

**Ms Martel:** So the process for you from this point on, despite your meeting with the minister, is that you will see the regulations after they have been drafted and you can give your comment then as a working group.

**Mr Harrington:** Yes.

**Mr Klees:** Thank you for your presentation today. You've made some interesting points. I'd like to just follow up on a couple of items. I know one Mr Danford wants to follow up on as well, and that's with regard to wayside permits. Your wish list, of course, is to have them eliminated. I don't think that's going to happen, but I would like to ask something of you. If we were to introduce an amendment that returned wayside permits to their original intent, which was to facilitate the construction and maintenance of roads where aggregate sources were not readily available, thereby eliminating the usage for other projects, would you be in support of an amendment like that?

**Mr Harrington:** I'll answer that with two answers. We have always said there are probably places where wayside permits should occur. Those are generally in the far north where you're building a road and you're never going to be back there, or you'll be back there in 30 years, and there isn't a licensed gravel pit within 300 miles. Generally speaking, that's only where it is. In the south, there are almost always licensed sites. The rationale for it has always been not the availability of material but the price of that material.

The Aggregate Resource Working Group has agreed that one of the problems in this industry is that we have driven the price of material down so low that the industry cannot operate profitably. As the Conservation Council says all the time, industries that are not profitable tend to be bad industries, industries that are profitable tend to be



good industries. So we disagree with the idea that driving the price of aggregate down is good.

If it is only where aggregate is not available — and I have made a few other suggestions as well — where the deposit is so small that you can't license it, where urbanization is about to occur and we need to rescue that aggregate before it occurs, those are all possibilities, but that's not the way it is used right now.

**Mr Harry Danford (Hastings-Peterborough):** My concern is on the wayside permits and your comment about them, that perhaps they should be eliminated entirely. I was also pleased to hear that you're aware of the east and the north, and I guess I'm referring more to the east. I think you'll also be aware there are very small pockets of aggregates in the eastern areas, and construction jobs do need to take place. Most of those wayside permits are granted to municipalities in most cases. I think that's a fair comment. Do you see that they should not be allowed to do that? Because it is in the interest of the public, and certainly the cost is a big factor in the north for some of the reasons you just mentioned.

**Mr Harrington:** I see the licensing process as a very good process to make sure that what you're doing is socially, economically and environmentally viable and appropriate. I look at municipalities and say municipalities use aggregate consistently, not just on a piece-by-piece basis. There's a good example where I say — for road sand, for example, which is what they're commonly used for. That's not a onetime deal, that's every year. Municipalities are always constructing roads, and if they need that aggregate supply, they should license their own deposit. There are lots of municipalities with licences. If not, if it's only to get cheap aggregate, then all it does is hurt the industry, and by way of doing that, hurt the environment, because an industry that's trying to compete with a wayside permit has to go cheaper, and cheaper generally means not as nice.

**The Chair:** Thank you, Mr Harrington. We do appreciate your input here this afternoon.

That was our last presenter. The committee is now adjourned until 10 o'clock tomorrow morning in Toronto.

*The committee adjourned at 1616.*











## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)  
\*Mr Harry Danford (Hastings-Peterborough PC)  
Mr Jim Flaherty (Durham Centre / -Centre PC)  
Mr Bernard Grandmaître (Ottawa East / -Est L)  
Mr Ernie Hardeman (Oxford PC)  
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\*Mr R. Gary Stewart (Peterborough PC)  
Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)  
Mr Len Wood (Cochrane North / -Nord ND)  
\*Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Michael A. Brown (Algoma-Manitoulin L) for Mr Grandmaître  
Mr Ted Chudleigh (Halton North / -Nord PC) for Mr Hardeman  
Mr Frank Klees (York-Mackenzie PC) for Mr Tascona  
Mr David Tilson (Dufferin-Peel PC) for Mr Maves

### **Also taking part / Autres participants et participantes:**

Ms Shelley Martel (Sudbury East / -Est ND)  
Mr Jim Brown (Scarborough West / -Ouest PC)

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Mr Lewis Yeager, research officer, Legislative Research Service



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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Friday 13 September 1996

# Journal des débats (Hansard)

Vendredi 13 septembre 1996

**Standing committee on  
general government**

Rent control

**Comité permanent des  
affaires gouvernementales**

Réglementation des loyers d'habitation

Chair: Jack Carroll  
Clerk: Tonia Grannum

Président : Jack Carroll  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Friday 13 September 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Vendredi 13 septembre 1996

*The committee met at 1006 in room 228.*

RENT CONTROL

**The Chair (Mr Jack Carroll):** Good morning. Welcome back to report writing on the committee on general government. When we finished on Monday —

**Mr Alvin Curling (Scarborough North):** I have a point, Mr Chairman.

**The Chair:** Just one second. When we finished on Monday, there was a motion on the floor. We had dealt with Mr Stewart's issue about a recess and we had resolved that and we had resolved the issue of Mr Curling's question about when we would meet next, and Mr Hardeman was the next speaker to be recognized.

**Mr Curling:** On a point of order, Mr Chairman: I understand that the government has released the report this morning. Are you aware that the impact study has been released? I just want to know if that is the case.

**The Chair:** You're referring to this report, Mr Curling?

**Mr Curling:** Yes, I presume that's it. How does the report read?

**Mr Mario Sergio (Yorkview):** Which one is this?

**Mr Rosario Marchese (Fort York):** There's an article in the Globe that Mr Curling is referring to about some report written by somebody, Dr Todd.

**Mr Curling:** Is this the same report in the motion that I was talking about?

**Mr Ernie Hardeman (Oxford):** That report was released and the members of the committee will recall I said last Monday that when the report was released, and it was imminent, it would be forwarded to the committee. I believe if it has not been given to the members of the committee, it will be tabled this morning.

**Mr Curling:** But the press has it.

**Mr Hardeman:** The final report.

**Mr Curling:** May I make a point, Mr Chairman? We just went through three weeks of hearings, and not only that, we went through a full day of trying to write a report. We asked for this report and we were told, especially I was lectured by Mr Parker and Mr Maves, that this was not necessary because we didn't need this to write our report. This has now been released to the press, and I think it's a complete insult to us as members of the committee to know there's a report that we asked for in a motion which was denied by the committee and the government. It has been released to the press and we have heard it's going to be released to us, after the fact.

I don't understand this. I think a complete farce is going on here. It just confirms what I thought, that the government has already made up its mind, the govern-

ment is already drafting legislation, the government knows exactly where it wants to go regardless of what report they have, regardless of what it hears, regardless of what input we put into this report writing. I was just taken aback this morning when I got in and I saw a headline saying that this report was released to the press, and now I'm being told it will be given to the committee later on. Where are the priorities here?

**The Chair:** Mr Curling, this is not a point of order. Maybe Mr Hardeman can clarify whether or not the report is going to be released or what the status of the report is.

**Mr Hardeman:** My understanding is, and we'll check into it, that it has been released and that it is being forwarded to the members of the opposition, the housing critics.

**The Chair:** This is not a point of order we're debating.

**Mr Sergio:** Mr Chair, we adjourned on Monday because we were asking for that information prior to coming to today's meeting.

**The Chair:** We're not debating a point of order here. It's not a point of order.

**Mr Marchese:** Mr Chair, we have a problem —

**Mr Sergio:** Mr Chairman, can you let me finish? If you have a copy of that report and you're going to be basing your decision on the information contained in that report, I don't have that information.

With all due respect, I have followed the meeting on a daily basis purposely to listen to the people and then make up my mind at the end when we formulate the report. I'm missing the most important information. You have that information. You people have that information. We don't have that information, and it has been released to the press.

This is an insult, because I followed this committee very devoutly day by day, listening to the people, and you are withholding the most important information for me to make up my mind when we have to write the report. Based on that, unless we have given that report a given time, I have no input today on making any recommendation towards it, and I'm ready to walk out.

**Mr Hardeman:** Mr Chairman, on a point of clarification: The report was released yesterday. A copy of the report was hand-delivered to the offices of Mr Curling and Mr Marchese.

**Mr Curling:** What time?

**Mr Hardeman:** I didn't follow the delivery service. I don't know what time it was delivered. But I've been informed that the offices had delivery.

**Mr Sergio:** Am I not a member of this committee? Am I not entitled to have a copy of this report?



**The Chair:** Mr Marchese, have you got something to say on this?

**Mr Marchese:** I do. We have a problem. If you rule this issue out of order, then you're going to have a problem with us in terms of how we participate in these discussions. You may decide to do that, but if you do that we have a problem. We had a long debate here on Monday about this report. We were saying to the government: "Please give us this report. It looks bad for you to withhold it." Then from Monday to today there's an article in the *Globe* that speaks about that report. It really is bad. It looks bad on the government.

Now you're nonchalantly saying, "We sent it to you, we sent you a copy." We didn't get it. It appeared in the paper before we even got it and you refused to give it to us that day. It just doesn't look good on the government. In terms of process, it's shabby; it's a shabby process for an article to appear in the paper about a report we were requesting that the government refused to give us. "When it's ready, we're going to give it to you," he said Monday. It's already been ready, made available, and the *Globe* has it before we do. It's a shabby, shabby thing.

**The Chair:** Mr Marchese, I'm not prepared to comment on whether it is or isn't shabby. Mr Hardeman advises the committee the report was hand-delivered to both your office and Mr Curling's office yesterday. It was hand-delivered to my office. I'm not prepared to entertain more comments on that particular point.

**Mr Curling:** But it's important —

**The Chair:** No, Mr Curling. I'm not going to entertain more comments.

**Mr Curling:** Now you say you didn't know it was hand-delivered. Mr Chairman, this is —

**The Chair:** It was hand-delivered to my office. It was hand-delivered to —

**Mr Curling:** You said you didn't even know, this morning, when I asked you. You said just a moment ago —

**The Chair:** I'm not prepared to entertain any more comment on that point.

**Mr Curling:** I think this is a farce.

**The Chair:** Mr Hardeman, you have the floor.

**Mr Curling:** I will not participate in this, Mr Chairman, because I think —

**Mr Hardeman:** Mr Chairman, I wish to withdraw the motion that I previously proposed to the committee and replace it with the following motion:

Whereas the standing committee on general government has been actively consulting on the government's tenant protection discussion paper *New Directions*; and

Whereas the committee was requested to listen to the people's thoughts on the government's proposals and how they felt the government could improve them; and

Whereas varying reports were heard on the different aspects of the tenant protection package; and

Whereas the report which was prepared by the legislative research entitled *Briefing Notes for Draft Tenant Protection Package Report* summarizes the views heard;

Be it resolved that the committee amend the document entitled *Draft Report on Tenant Protection Package* by

removing all italicized "Issues to be Addressed" questions; and

Be it further resolved that this committee adopt the *Draft Report on Tenant Protection Package* as the committee's report to the Minister of Municipal Affairs and Housing; and

Be it further resolved that the document *Summary of Witness Recommendations for Tenant Protection Package* be attached to the committee report as an appendix.

**The Chair:** Mr Hardeman has tabled a new motion. Have you got copies of that for the committee? The clerk will make copies. Mr Hardeman, would you like to make some opening comments on the motion?

**Mr Marchese:** Mr Chair, if you don't mind, he's going to comment on a motion that he raced through that I didn't hear very well. Could we just wait for a moment to get a copy?

**The Chair:** We'll just take a short recess until the copies are back.

*The committee recessed from 1016 to 1022.*

**The Chair:** Copies of the motion have been circulated. Mr Hardeman, do you want to make some initial comments?

**Mr Hardeman:** Just very briefly, the major difference in the motion is that the previous motion dealt with the report of this committee being based on the documents that were presented by legislative research. The present motion that is now before the committee is to adopt that report and have discussion based on that report.

**The Chair:** Any further comment on the motion?

**Mr Marchese:** Mr Hardeman, I didn't bring the other motion that you had moved the last time — if the clerk has it, I would like to see it — but I got the impression that you wanted to at least discuss the report that was in it. This motion simply takes the critical questions that were in that report out, but you still want to discuss that report. Is that what I understand you to be saying?

**Mr Hardeman:** The intent of the motion is to adopt the report as was written. Obviously the motion is to discuss those items. It was not deemed appropriate that this committee would spend their time answering the questions that were prepared by legislative research. The issues that are in the report are open for discussion by the members of the committee who are present.

**Mr Marchese:** Mr Hardeman, in the second paragraph you say that this committee was requested to listen to people's thoughts. It gives me the impression that it takes away critical discussion out of this debate, because you seem to suggest in that second paragraph that we, as members, have no input because all we were requested to do by your minister is to listen. Is that correct?

**Mr Hardeman:** As it relates to what the minister suggested or recommended in his presentation. When we started these discussions, the minister said that's what we're trying to do — and this is I suppose not taking in the whole speech — but that's what we're trying to do, and we want to make sure that we get it right. That's where this committee comes in.

We're anxious to learn what people think about our proposals and how they feel we can improve them, and



what we are proposing to do with the report to the minister is to provide him with the information we've heard from those people who have made their presentations, so they take that into consideration as they draft legislation and policy to deal with the issue. There will be opportunities for review of that legislation and again public hearings based on the legislation that would be proposed from these discussions.

**Mr Marchese:** At the moment I'm not quite sure how we improve the report, because the report is based on what we heard. Do you have any suggestions on how to improve this report or how to get it right? What else are you suggesting we do with this? How do we improve it?

**Mr Hardeman:** In all fairness, I don't believe we need to improve the report, and that's why I'm putting it forward that we adopt it this way, because I believe that is the appropriate way to inform the minister of what we heard and the different interests.

**Mr Marchese:** That's really what I was getting at, because I don't think you were looking for ways to improve it and ways to get it right. That's why I made reference to paragraph 2 that says "the committee was requested to listen," effectively shutting out critical discussion. You just now admitted that your recommendation is to give this report as is to the minister, so there's no discussion any more on this.

**Mr Hardeman:** I would suggest the issue is, when the minister speaks, we want to make sure we get it right, that is, we want to make sure we get any new tenant protection legislation right. One of the things that will help that process to make sure the government does get it right is for this committee to have gone out and heard what the public and all the people involved feel and the suggestions they may be able to make on the changes, and that we report those changes or those recommendations back to the minister. I believe this resolution, in adopting that report, will do just that.

**Mr Marchese:** This resolution does nothing. This resolution makes you, an effective member of this committee — it makes all of us ineffectual. It makes us useless. It makes us passive members of this Legislature. If all you want to do is submit a report based on what you heard, you don't need us. You might as well get a few of your people, have a meeting so we don't waste \$20,000 of this government's time, and tell people to come and make a submission so that these two fine people can make a summary of what they've said. Why do you need me to raise questions? Why do you need the other opposition parties to raise questions? I don't understand.

If you can offer nothing more except to say this is what we heard and this is going to help your poor friend Minister Leach, I tell you, it's a shabby, shabby process. I don't think it's an intelligent way to work and I think you and the minister and the members of this committee should have sat together to strategize on how to present something that's intelligent to those tenants who come to listen to you.

This is not an intelligent process at all. I have to tell you quite frankly, this is bad. The least you could have done is to make some suggestions on where to go. If you

have a sense of where you and your minister want to go, why don't you have the intellectual fortitude to put it out right now, instead of hiding behind the legislation that is going to come that is likely going to reproduce exactly what we've heard — not reproduce what we've heard but reproduce the report that you've submitted? It will be, by and large, that report with very minor changes, and if that's it, it will not reflect what we heard.

It's in this regard that I suggest to you that it would be good for us to know where you, Mr Hardeman, and your fellow members are moving to, because then I would know whether you've actually been listening or not. But I hate to be deceived or confronted by a report later on, when you introduce a bill, that says very much what you have written in your report but will contradict much of what has been said by all the tenant groups and organizations that have come to support tenants.

To say I'm highly disappointed is an understatement obviously. That's why I came. I came this morning with the expectation we were going to have a discussion, but you brought me here an extra day to present me with a motion that says this is what we're going to submit. Why do you waste my time, these people's time, Hansard's time, the other people who record these hearings, to present me with a motion that says we're just going to submit this to the minister? Why did you do that?

Why didn't you on Friday find a process to deal with this and say: "Mr Marchese, don't worry, you don't have to come here on Friday to waste your time. We're going to end it on Monday"? You bring me back here for this, so that I can criticize this meaningless piece of process you're suggesting? Why would you do that?

It is a sham of a process. We should have dealt with what these people told us throughout the three weeks, one in Toronto and two weeks outside of Toronto. They have offered much criticism to this paper and many offered many suggestions. They deserve and we, the opposition members, deserve to know how you deal critically with what you've heard. To be passive recipients of information and to passively send this information to Leach in this process is not right. I believe it looks bad on you and it will look bad on you when the tenants find out what you have suggested.

Now you may not care. I suspect you may not care, as you didn't care about the fact that this article appeared on that report. If you had cared about this, you would have given us this report that Monday. I suspect it was ready. What is printed here is based on what was already printed, what was already ready. You would have looked good had you handed this to us, and you decided not to.

You're doing the same thing with this process again, where you're going to keep the opposition in the dark and you're going to keep the tenants in the dark until you're ready to submit a bill that will reflect your proposal, this tenant package proposal that hurts tenants and does not protect them, that benefits the landlord with huge bonanzas, and I suspect you're going to give a little more because they were very critical of your report and said you're not going far enough.

I don't want to prolong it unnecessarily. I just wanted to make sure those remarks were on the record. Obviously I have nothing more to say and I'm sure Mr Hardeman

has nothing more to say. Let's call the question and end it, so we can adjourn.

**The Chair:** Any further debate on the motion? All those in favour?

**Mr Marchese:** A recorded vote.

**Ayes**

Danford, Hardeman, Maves, Ross, Smith, Stewart, Young.

**Nays**

Marchese.

**Mr Marchese:** And I'm sure Mr Sergio and Mr Curling would oppose this if they were here.

**The Chair:** The motion is carried. If there's no further business, this committee stands adjourned.

*The committee adjourned at 1033.*





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### STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Mr Jack Carroll (Chatham-Kent PC)

**Vice-Chair / Vice-Président:** Mr Bart Maves (Niagara Falls PC)

\*Mr Jack Carroll (Chatham-Kent PC)

\*Mr Harry Danford (Hastings-Peterborough PC)

Mr Jim Flaherty (Durham Centre / -Centre PC)

Mr Bernard Grandmaître (Ottawa East / -Est L)

\*Mr Ernie Hardeman (Oxford PC)

\*Mr Rosario Marchese (Fort York ND)

\*Mr Bart Maves (Niagara Falls PC)

Mrs Sandra Pupatello (Windsor-Sandwich L)

\*Mrs Lillian Ross (Hamilton West / -Ouest PC)

\*Mr Mario Sergio (Yorkview L)

\*Mr R. Gary Stewart (Peterborough PC)

Mr Joseph N. Tascona (Simcoe Centre / -Centre PC)

Mr Len Wood (Cochrane North / -Nord ND)

\*Mr Terence H. Young (Halton Centre / -Centre PC)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Mr Alvin Curling (Scarborough North / -Nord L) for Mrs Pupatello

Mr Bruce Smith (Middlesex PC) for Mr Flaherty

**Clerk / Greffière:** Ms Tonia Grannum

**Staff / Personnel:** Ms Elaine Campbell; Mr Jerry Richmond,  
research officers, Legislative Research Service













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